BROADCASTING

Broadcast Advertising

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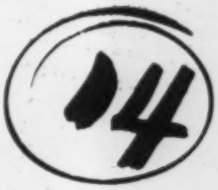
SEP 21 1942
DETROIT

How well-informed a timebuyer or advertising agent are you?

Try this brief, but informative, WOR quiz. It's fun, it's fact-full; it's a few minutes well-spent.

1. THIS FORMATION REPRESENTS:

(a) an Asiatic peninsula
(b) area covered by power-full station
(c) place where most Indians own radios
(d) most active war work center

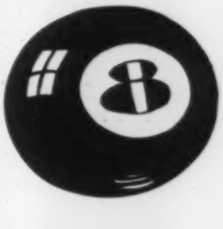


2. THIS CURIOUS SYMBOL IS USED TO:

(a) identify radio war workers
(b) indicate cities you should think about
(c) give studio instructions
(d) admit people to Army transmitter

3. THESE INITIALS ARE CONNECTED WITH:

(a) a famous operatic singer
(b) a Boston shortwave station
(c) a successful substitute product
(d) the buying of local radio time



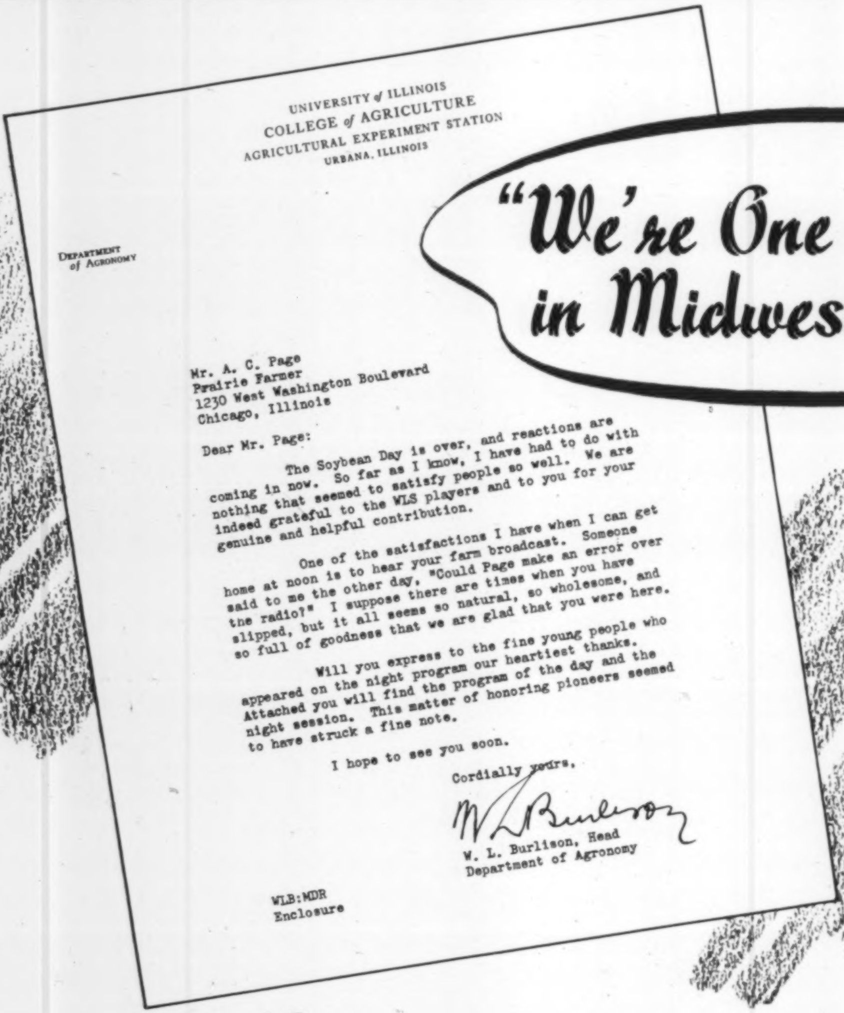
4. THIS IS THE INSIGNIA OF:

(a) a famous Navy air force squadron
(b) a top radio comedian
(c) a very popular all-night club
(d) a well-known radio executive

ANSWERS ON PAGE 55

—that power-full station at 1440 Broadway, in New York

WOR



UNIVERSITY of ILLINOIS
COLLEGE of AGRICULTURE
AGRICULTURAL EXPERIMENT STATION
URBANA, ILLINOIS

DEPARTMENT
of AGRONOMY

Mr. A. C. Page
Prairie Farmer
1230 West Washington Boulevard
Chicago, Illinois

Dear Mr. Page:

The Soybean Day is over, and reactions are coming in now. So far as I know, I have had to do with nothing that seemed to satisfy people so well. We are indeed grateful to the WLS players and to you for your genuine and helpful contribution.

One of the satisfactions I have when I can get home at noon is to hear your farm broadcast. Someone said to me the other day, "Could Page make an error over the radio?" I suppose there are times when you have slipped, but it all seems so natural, so wholesome, and so full of goodness that we are glad that you were here.

Will you express to the fine young people who appeared on the night program our heartiest thanks. Attached you will find the program of the day and the night session. This matter of honoring pioneers seemed to have struck a fine note.

I hope to see you soon.

Cordially yours,

W L Burlison

W. L. Burlison, Head
Department of Agronomy

WLB:MDR
Enclosure

"We're One of the Family in Midwest America!"

SOYBEAN DAY at Urbana, Illinois, finds WLS microphones right on the spot, broadcasting highlights of the event to thousands of interested families. WLS farm programs are broadcast from every major Midwest community, cover every important farm event. No wonder Midwesterners turn to WLS as to a highly respected member of the family for authoritative information. No wonder that in Midwest America *WLS Gets Results!*

WLS

CHICAGO

890 KILOCYCLES
50,000 WATTS
BLUE NETWORK

The
PRAIRIE FARMER STATION

BURRIDGE D. BUTLER
President

GLENN SNYDER
Manager

REPRESENTED BY
JOHN BLAIR & COMPANY

MANAGEMENT AFFILIATED WITH **KOY**, PHOENIX, AND THE ARIZONA NETWORK — **KOY** PHOENIX ★ **KTUC** TUCSON ★ **KSUN** BISBEE-LOWELL

IN HARTFORD, IT'S WDRC

WHERE THERE'S ONE LOW RATE FOR ALL ADVERTISERS

For more than 10 years, advertisers have enjoyed the tangible benefits of WDRC's rate policy . . . one low rate to everybody . . . a bargain for all. WDRC is being profitably used by an abundance of local advertisers who want complete coverage of this rich trading area . . . and an equally long list of regional and national spot accounts who pay as little as the local adcasters. In Connecticut's Major Market, WDRC will deliver the goods for you . . . and do it at a lower cost. Basic CBS for Connecticut.

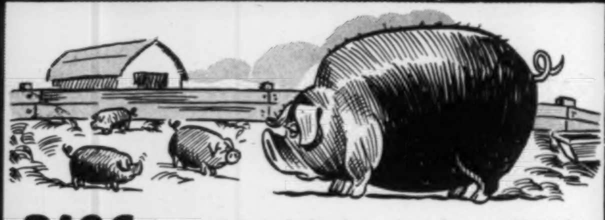
COVERAGE PROGRAMS RATE

WDRC

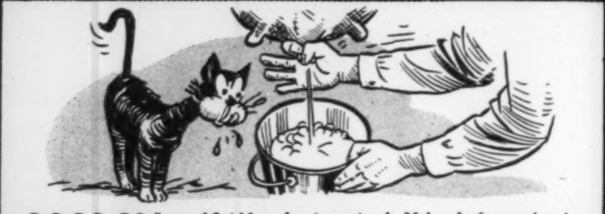
CONNECTICUT'S PIONEER BROADCASTER

Published every Monday, 53rd issue (Year Book Number) published in February by Broadcasting Publications, Inc., 870 National Press Building, Washington, D. C. Entered as second class matter March 14, 1933, at the Post Office at Washington, D. C., under act of March 3, 1879.

Pri-mary Read-er for Time Buy-ers



PIGS Fat, stupid. But valuable. So much so, that some Nebraska farmers are concentrating on pig raising almost exclusively.



MILK Lacteal fluid from bovine animals. Nebraska farmers' major problem right now is raising more cows to give more milk to supply more people. Prices, of course, have jumped.

ONE MINUTE, PLEASE!

EGGS Vitamin-filled ovals laid by barn-yard birds who are working overtime to meet war-time orders as well as domestic demand. Eggs bring a pretty penny nowadays (have you noticed your grocery bill?)

PRETTY PENNY

Unit of currency. Nebraska farmers not only are overburdened with pretty pennies, but also silver coin and scads of greenbacks. They want to exchange it for the things *you* sell, tobacco and coffee, clothes and cosmetics. Whatever you have, tell them about it by using "their" station. You *need* KFAB, to do a complete job of selling the farm markets throughout Nebraska and her neighboring states!

KFAB LINCOLN, NEBR.

FOR CITY LISTENERS *use* KOIL OMAHA

DON SEARLE, GENERAL MANAGER
ED PETRY & CO., INC., NAT'L REP'R

BROADCASTING
The Weekly Newsmagazine of Radio
Broadcast Advertising

VOL. 24 • NO. 12 SEPTEMBER 21, 194

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Subscription $5.00 a Year ● Canadian and Foreign, $6.00
Published every Monday, 53rd issue (Yearbook Number) Published in February

You're in GOOD COMPANY when you use

WOL IN THE NATION'S CAPITAL WASHINGTON, D. C.

MORE THAN 40 NATIONAL ADVERTISERS NOW GETTING RESULTS OVER WOL—THERE MUST BE A REASON!

Get the Facts from WOL — Washington, D. C. — Affiliated with MUTUAL BROADCASTING SYSTEM

★ ★ SPOT SALES, INC.—Natl. Rep., New York, Chicago, San Francisco ★ ★

WXYZ WILL DELIVER* LION'S SHARE

OF DETROIT AT LOWEST COST . . . . .

*GUARANTEE with any WXYZ Champion Show

KING-TRENDLE BROADCASTING CORP., Detroit, Michigan

NATIONAL REPRESENTATIVES: PAUL H. RAYMER COMPANY

Tuned t

Dr. Edwin Franko Goldman leads America's most famous band in stirring marches—exclusive THESAURUS artists.

British Commandos and RAF flyers—heroes of raids on Vaagso, St. Nazaire and Augsburg—interviewed for programs in the Special Feature Dividend series, "Freedom's Fighting Men"—an extra for THESAURUS subscribers.

Sammy Kaye and His Orchestra, popular purveyors of "Swing and Sway"—exclusive THESAURUS artists.

Nozaire
ividend
scriber.

these times!

NBC THESAURUS

A TREASURE HOUSE OF RECORDED PROGRAMS

Music today's listeners want!

Music today's sponsors will buy!

Today, music means more to America than ever before! Music to help a hard-working America relax . . . music to inspire a united America . . . music to convey the message and spirit of America today!

NBC Thesaurus is a treasure house of music *tuned to these times*. It is music your listeners want—presented by stars and orchestras they want to hear—played the way they want to hear it.

There are more than 3,000 selections in today's timely NBC Thesaurus—every one of them an outstanding performance by such orchestras and soloists as Dr. Edwin Franko Goldman, Allen Roth, Sammy Kaye, Rosario Bourdon, Thomas L. Thomas, Dick Jurgens, Norman Cloutier, Xavier Cugat. Here is music that ranges from cowboy ballads to conga rhythms, from spirited college marches to superb symphonic selections . . . music that means more enjoyment for your listeners—more sales for you.

Here are 20 hours of big-time broadcasting for which continuity is furnished each week—a total of 53 sparkling individual program periods per week!* It's an opportunity for your station to give service and win sales that you can't afford to miss. Get in touch with *timely* NBC THESAURUS today!

**And there is still ample musical material from which your program staff can build additional sustaining and commercial programs—plus—such timely "extras" as the Special Feature Dividend series, "Freedom's Fighting Men," stirring interviews with heroes of the fighting forces of our Allies in this war.*

—ALSO—

Timely NBC Recorded Programs Build Station's and Sponsor's Sales

Flying for Freedom
Authentic drama-packed stories of United Nations airmen serving in the Royal Canadian Air Force. (26 half-hour episodes).

Touchdown Tips
Colorful 15-minute programs of Sam Hayes' expert predictions and analyses of the top college games each week. (13 quarter-hours—started September 11).

Getting the Most Out of Life Today
Today, more than ever, America needs the inspirational philosophy of William L. Stidger in these human talks that give spiritual uplift and courage—point practical solutions of present-day problems. (117 five-minute programs).

Let's Take a Look in Your Mirror
"Good grooming, feminine charm and poise, and the right mental attitude are part of the national spirit of courage today," says Stella Unger—and that's the theme of this vital, spontaneous program for women. (156 five-minute programs).

Betty and Bob
The story of "ordinary folks who lead extraordinary lives," with name stars who are favorites of millions. (390 quarter-hours).

NEW **The Name You Will Remember**
Hard-hitting, revealing, "background" sketches of world personalities in the day's news. (39 five-minute programs).

Other series include Five-Minute Mysteries, Hollywood Headliners, Time Out (2 series), Who's News, and Carson Robison and His Buckaroos. Write for presentations, rates, and availability and audition records.

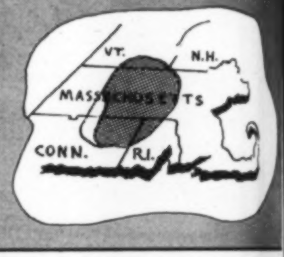
NBC Radio Recording Division
National Broadcasting Company
A Radio Corporation of America Service
Radio City, New York • Trans-Lux Building, Washington, D. C.
Merchandise Mart, Chicago • • Sunset & Vine, Hollywood

Remember

No Other New England Radio Station Gives You

All This

Coverage WTAG is the only station providing primary coverage throughout Central New England — one of this nation's busiest areas in war production.


VT.
N.H.
MASSACHUSETTS
CONN.
R.I.

Audience It has nearly twice as many listeners in its area as all other stations combined.

Promotion WTAG's parent newspapers, the Worcester Telegram and the Evening Gazette, morning, evening, Sunday give WTAG's advertisers complete promotional backing.

The Evening Gazette
Worcester Telegram
RADIO NEWS
SUNDAY T
WTAG
presents

When You Buy Time - -Buy An Audience

WTAG **WORCESTER, MASS.**
N. B. C. BASIC RED NETWORK
EDWARD PETRY & CO. NATIONAL REPRESENTATIVE
Owned and Operated by the Worcester Telegram-Gazette

Now—and one year after Victory

The advertising dollar you invest with WCSC gives double value. You make sales today throughout a thriving boom market. And you build brand preference in a market that will continue to boom long after Victory.

Because the Charleston "boom" *is* different. It's no flash-in-the-pan based purely on a war economy. What has taken place is the industrial rebirth of an entire area. New methods, new super-power facilities and new plants have transformed Charleston into a big, aggressive, growing market. The conclusion is obvious: Charleston—a major market today—is a "must" market for the future.

fact no. 3 *of a series:*

This year the Charleston Ordnance Depot will pay out over $11,000,000 in salaries and wages. *Every year*—in war or peace—ordnance will continue to thrive in Charleston. Other all-time important Charleston industries include a dozen fertilizer plants and a score of wood and pulp processing plants... two kinds of business that employ thousands year after year!

WCSC

CHARLESTON, S. C.

The CBS Station for the Coastal Carolinas. Represented Nationally by Free & Peters, Inc.

ONE OF A SERIES PRESENTING THE MEN WHO MAKE FREE & PETERS STATIONS

EARL E. MAY

PRESIDENT, KMA, SHENANDOAH, IOWA

1910—Principal, Hayes Center (Neb.) High School
1911-15—Salesman, D. M. Ferry Seed Co., during school vacations
1915—LL. B., University of Nebraska
1915—Vice President, Mount Arbor Nurseries
1918—Organized May Seed & Nursery Co., became its President
1925—President, American Assn. of Nurserymen
1925—Established Station KMA, Shenandoah
1926—Awarded Radio Digest Gold Cup as Nation's most popular radio announcer
1927—Built Studio and Auditorium seating 1000 people
1933—Organized Central West Livestock Feeders' Assn., in cooperation with Department of Agriculture
1942—Member, Planning and Advisory Committee, Blue Network.

HOW many friends do you have, who would send you a signed blank check? Earl May has *thousands*. You see, during all the years Earl May has been President of KMA, he has personally gone to the microphone three or four times each day, to talk to his countless listeners, to share with them his interest and his knowledge of seed, and farming, and agricultural *business*. He and his KMA are trusted friends in a million Midwestern farm homes. As a result, KMA is one of the most miraculous mail-pulling, *result*-getting stations in the world.

Yes, the more we live in this radio industry, the more we feel that a station's *management* ranks at least equal with power, frequency and location, as a factor in its advertising effectiveness. If this were not so, all stations would produce results in some mathematical pattern which could be easily reduced to a scientific formula. The very absence of any such formula in radio advertising proves that smart time-buying is a matter not only of statistics and data, but also of *knowing* your stations.

That, to our minds, is where we come in. We know our stations, their personnels, their philosophies as well as we know their rates and power. We know what they can do, and why, and how. We believe we can pass these facts on to you in such a way as to help you increase your radio results. And that's another function we have pioneered, here in this group of pioneer radio-station representatives.

EXCLUSIVE REPRESENTATIVES:

WGR-WKBW	BUFFALO
WJWC	CHICAGO-HAMMOND
WCKY	CINCINNATI
KDAL	DULUTH
WDAY	FARGO
WISH	INDIANAPOLIS
WKZO	KALAMAZOO-GRAND RAPIDS
KMBC	KANSAS CITY
WAVE	LOUISVILLE
WTCN	MINNEAPOLIS-ST. PAUL
WINS	NEW YORK
WMBD	PEORIA
KSD	ST. LOUIS
WFBL	SYRACUSE
. . . IOWA . . .	
WHO	DES MOINES
WOC	DAVENPORT
KMA	SHENANDOAH
. . . SOUTHEAST . . .	
WCSC	CHARLESTON
WIS	COLUMBIA
WPTF	RALEIGH
WDBJ	ROANOKE
. . . SOUTHWEST . . .	
KOB	ALBUQUERQUE
KOMA	OKLAHOMA CITY
KTUL	TULSA
. . . PACIFIC COAST . . .	
KARM	FRESNO
KECA	LOS ANGELES
KOIN-KALE	PORTLAND
KROW	OAKLAND-SAN FRANCISCO
KIRO	SEATTLE

and WRIGHT-SONOVOX, Inc.

FREE & PETERS, INC.

Pioneer Radio Station Representatives

Since May, 1932

CHICAGO: [illegible] *N. Michigan*
Franklin [illegible]

NEW YORK: [illegible] *Park Ave.*
Plaza [illegible]

SAN FRANCISCO: [illegible] *Sutter*
Sutter [illegible]

HOLLYWOOD: [illegible] *N. Gordon*
Gladstone 3949

ATLANTA: [illegible] *Palmer Bldg.*
Main 5667

BROADCASTING
and
Broadcast Advertising

Vol. 23 No. 12 WASHINGTON, D. C., SEPTEMBER 21, 1942 $5.00 A YEAR—15c A COPY

Davis, Fly Spur Drive for Music Statute

Threat to Stations Seen in Record Strike

By SOL TAISHOFF

TOLD POINT-BLANK by Elmer Davis, director of OWI, and James Lawrence Fly, chairman of the FCC and the Board of War Communications, that the national morale in wartime is threatened and that many broadcast stations will be crippled if the Petrillo ban on recordings continues, the Senate Petrillo Probe Committee this week will seek to rush through Congress the Clark resolution (H. Res.-286) for a full-fledged inquiry into the American Federation of Musicians looking to prompt enactment of remedial legislation.

Realizing that the situation is even more serious than first indicated, Senator D. Worth Clark (D-Idaho), chairman of the subcommittee, said last Friday following the whirlwind preliminary testimony, that he would seek action on his resolution both by the Senate Interstate Commerce Committee and the Senate. Clearance has been assured by the Senate leadership as soon as a calendar opening occurs.

Stations Threatened

Mr. Davis, the wartime Government's top information official, told the Committee Thursday that the Petrillo ban threatened the continued existence of many stations, is injurious to the national system of communication, and may seriously hamper OWI's work. He reported that the military command felt the cessation of recorded music will jeopardize the complete morale and propaganda broadcast structure at combat zone points and that the Army thus far has failed to get any satisfactory assurances from Petrillo.

Mr. Davis was followed on the stand Friday by Chairman Fly, who was no less direct in his condemnation of the ban and in its predicting its due consequencies. He said it would strike at the heart of broadcasting and that one-third or perhaps one-half of the stations eventually might be forced out of business if musicians are not permitted to record for transcriptions and phonograph records.

Quick Action

It was after both Messrs. Davis and Fly had told the committee that their efforts to get Mr. Petrillo to call off his ban in the war interest, had failed that Chairman Clark announced his plan to press for legislation before further serious injury is done the war effort. He said the committee will move after the testimony Monday of Assistant Attorney General Thurman Arnold, dealing with the pending Government anti-trust suit against Petrillo, precipitated by the Aug. 1 transcription ban. The suit is scheduled for hearing on Oct. 12 before the Federal District Court in Chicago.

Running account of testimony in the Petrillo hearing will be found starting on page 59.

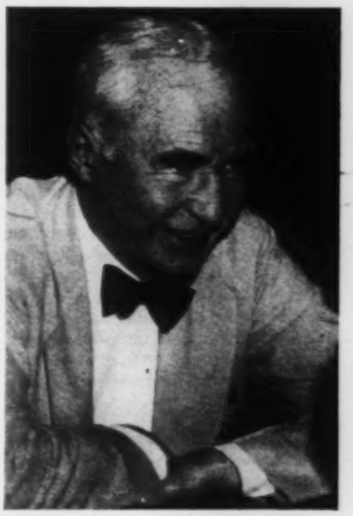
PETRILLO PROBE Committee, as preliminary hearings were opened last Thursday (l to r): Senators Andrews (D-Fla.) Chairman Clark (D-Idaho), and Tobey (R-N.H.) Absent because of an important military Affairs Committee meeting were Senators Hill (D-S.C.) majority whip, and Gurney (R-S.D.).

Pointing out that Petrillo had refused to afford any interim relief, in the face of overtures of Mr. Davis made on behalf of the armed services and the wartime agencies of the Government, as well as those of Mr. Fly, Chairman Clark said that he felt it devolved upon the Congress to get things done "quickly". He asserted the whole question would be placed before the Senate as soon as the "legislative wheels can get it there" with a view toward getting the "laws of our land changed to correct this obviously unfair thing."

The hearings last week were entirely preliminary. Senator Clark frankly told those present in opening the inquiry, that he proposed only to "lay the groundwork" acquiring sufficient information to justify adoption of his resolution. After that, he said, funds will be sought from the Committee on Audits and Accounts with approval of his resolution by the Senate. All signs point to speedy Senate action.

Mr. Davis' testimony, marking his first appearance before a Senate committee since he left CBS last summer as its ace news analyst to take over OWI, was concise and direct. In clipped phrases, sounding much like his news broadcasts, he told the committee that there are some 150 communities where stations outside the jurisdiction of any AFM local are dependent on recorded music to hold their audiences. He said his office had a "direct and vital concern with the maintenance of radio coverage in this country".

Extemporaneously, he observed that because of the importance of radio for the conveyance of war information, his office was determined to keep them operating at all costs. He even alluded to possible subsidy, presumably referring to stations in the outlying territories such as Alaska, Hawaii and Puerto Rico, where regular network service is not available and where war conditions have seriously affected commercial operations.



IN JOVIAL MOOD, Elmer Davis, director of OWI, answered a Senatorial quip in his appearance last Thursday before the Senate Petrillo Probe Subcommittee. It was his first Congressional testimony since he left the ranks of radio news analysts to take the OWI helm at the President's request.

Survey by FCC

Chairman Fly used as the basis for his prepared testimony the results of the all-inclusive survey of the use of music, both live and recorded, made by stations and networks, based on a questionnaire sent out Aug. 15. He introduced and described the results of this detailed statistical analysis and won the praise of the committee for the comprehensiveness of the analysis.

In interpreting the data, Mr. Fly said it was no exaggeration to talk about the ultimate affect of the Petrillo ban on "one-third to one-half" of the stations. It is an "insiduous process", he said, that would not happen overnight. The impact will be felt cumulatively, he declared, after records wear out and program material dries up.

Moreover, the ban comes when many stations, notably smaller

(*Continued on page 58*)

Key Personnel Restricted by Military

Radio Employes Need Employer Approval To Enlist

By RALPH G. TUCHMAN

COMPLETE Army cooperation with the War Manpower Commission in matters of manpower was reaffirmed last Thursday by Col. S. J. Grogan at Secty. of War Henry L. Stimson's press conference when he cited the recent Army-Navy policy to regulate the enlisting or commissioning of civilians employed in any of the 34 essential industries (including broadcasting), or in Federal agencies.

Under this policy, adopted by the Secretary of War and the Secretary of Navy, on recommendation of the Joint Army and Navy Personnel Board, civilians engaged in such occupations will not be accepted for commission or enlistment without first obtaining a written release from a responsible authority in their organizations. By definition, key civilians are, "executives; heads of major divisions or departments and principle sub-divisions; and technical experts whose principal duties involve design, planning or research".

Release Needed

Those employes not specifically mentioned in the definition are required to obtain a release from their local Selective Service Boards before their enlistment or commission is accepted, if the applicant is a Selective Service registrant. In case of disagreement between the local Board and the industry concerned, appeals may be taken under Selective Service regulations.

If a classification has not yet been assigned to the individual applying for enlistment or commission, the decision as to acceptance without a release from the proper authority will depend upon the merits of the individual case. Where the responsible authority disapproves of the individual's intention to enlist or accept a commission the final decision rests with a committee appointed by the Joint Army and Navy Personnel Board.

The list of 34 essential activities which specifically lists broadcasting under communications was originally prepared by the United States Employment Service at the request of the War Manpower Commission and has served Selective Service local boards with a guide in cases of occupational deferrment.

Another policy growing out of the joint statement provides that except "in furtherance of definite mobilization plans," nobody except students in colleges will be commissioned or enlisted and then allowed to remain on inactive status, thereby retaining their civilian employment.

Nothing developed at the WMC meeting last Thursday to affect the position of the broadcasting industry and it was emphasized there was little likelihood of any specific consideration before the middle of October. At his press conference last Monday, BWC-FCC Chairman James Lawrence Fly said the BWC's manpower questionaires mailed to all communications companies including broadcasting were coming in rapidly and expected them all in very shortly. "The communications industry need not feel that this work will be slowed down," Chairman Fly assured.

Due for a Shock

In testifying before the House Defense Migration Committee last Tuesday, Brig. Gen. Hershey said that industry in general would likely have to be "shocked" into the realization that men will have to be, and can be, replaced by women. In a statement released by National Selective Service headquarters, industries are advised to "take an inventory now". It was urged that every employer know how many men on his payroll are between the ages of 20 and 45. On the basis of such an inventory it was suggested that training for replacement should progress. Although deferments for men who can be replaced by training another person should not be sought the statement advised, it urged deferment requests for any man going into the services whose immediate departure would hamper service essential to the war effort.

Positive word of considered universal service legislation was given last Wednesday by Paul V. McNutt, WMC head, when he told the House Defense Labor Migration Committee that his agency was currently drafting such a measure for submission to President Roosevelt since it was apparent such a control was "inevitable." He said it was not yet certain how soon the legislation would come, or what form it would take then, but he said it was his judgment that such regulation was ultimately essential.

In his appearance before the House Committee, Gen. Hershey emphasized the fact that his office has constantly urged all local boards located in a commuity served by the USES to secure the advice of the local public employment office before classifying or re-classifying an individual skilled in a war occupation. Furthermore he testified that Selective Service had issued a directive counselling draft boards to consider the re-classification of any man changing to another job and re-classifying him out of a deferred position if local boards are convinced that the former job is more in the interest of the war effort.

Trommer Spots

JOHN F. TROMMER Inc., Brooklyn (beer) on Sept. 15 started *The Answer Man* on WOR, New York, on a twice-weekly basis. The quarter-hour evening program will be promoted through newspaper ads on radio pages. Company continues its spot announcement campaign launched in May on about 10 eastern stations. Commercials feature the "two-way lightness" theme. Radio is being used in conjunction with newspapers and direct mail. Agency is Federal Adv., New York.

Cigar Plans

CONGRESS CIGAR Co., Newark, has appointed Schwimmer & Scott, Chicago, to handle the advertising for LaPalina cigars, effective Oct. 1. A comprehensive campaign including spot radio is planned.

COCA COLA DEALERS from coast-to-coast heard a special closed-circuit conference of the BLUE from the RCA Bldg., New York, Sept. 15, to discuss plans for the new *Spotlight Bands* program. Among those who attended were (l to r): A. N. Steele, vice-president of the D'Arcy Adv. Co.; Felix W. Coste, vice-president of the Coca Cola Co.; Edgar Kobak, executive vice-president of the BLUE.

Series Radio Fe Assigned to USO

300 Stations, Shortwaves Carry Baseball Classic

AT A MEETING in Chicago last Tuesday with National and American League officials at which plans for 1942 World Series were made, Baseball Commissioner Kenesaw M. Landis announced that the $100,000 paid for the broadcasting rights on MBS by the Gillette Safety Razor Co., Boston, will be donated to the USO.

Shortwave Plans

The annual baseball classic, this year between the New York Yankees and either St. Louis Cards or the Brooklyn Dodgers, opening Sept. 30 in the park of the National League pennant winner, will be fed by MBS to over 300 stations, and will be shortwaved to U. S. forces all over the world by the General Electric shortwave stations, KGEI, San Francisco; WGEO, Schenectady, while a running play-by-play description will be broadcast in Spanish and beamed to Latin America by WGEA, Schenectady. Dramatized reenactments of the games will be shortwaved by WRCA and WNBI, New York.

The games will be handled by Red Barber, announcer of the Brooklyn Dodgers on WHN, New York, and Mel Allen, announcer of the New York Giants and Yankees on WOR, New York. Allen succeeds Bob Elson of WGN, Chicago, World Series announcer for the past 12 years, now in the Navy.

COCA-COLA PLANS ON BLUE CIRCUIT

THROUGH the medium of the weekly closed circuit talk to BLUE affiliates, representatives of the Army and Navy and executives of the BLUE and Coca Cola Co., Atlanta, last Tuesday emphasized the importance of Coca Cola's new program *Victory Parade of Spotlight Bands* to the morale of the armed forces. The six-weekly series, starting Sept. 21, will originate in Army posts, Navy bases and war plants.

Gathered at studios of BLUE affiliates throughout the country, Coca-Cola bottlers heard Lt. Col. Edward M. Kirby for the War Dept. and Com. Robert W. Barry for the Navy, both of whom stressed the need for entertainment for men in the armed forces and war workers. Other speakers were Harrison Jones, chairman of the board of Coca-Cola, Michael Strauss of the WPB; Clyde Vandenburg, of the OWI; Paul Dudley, executive producer of the program for D'Arcy Adv. Co., New York, agency in charge; Edgar Kobak, executive vice-president of the BLUE; Keith Kiggins, BLUE vice-president in charge of station relations; John H. McNeil, manager of WJZ, BLUE New York outlet, and Horace Heidt, representing the *Spotlight Band* leaders.

First band to be featured on the show will be Harry James who will open from Parris Island.

"HMM! NOT BAD FROM ANY ANGLE!"

● Any way you look at 'em, Iowa people are among the most prosperous prospects you'll find today! And you don't have to take *our* word for it, either. The *proof* is right on Page 8 of the authentic 1942 Iowa Radio Audience Survey.

In any category—urban, village or farm—the economic status of Iowa families is far higher than that of U. S. families as a whole. For example, the Survey shows that of all Iowa families, 14.9% have "high" incomes; 60.5% "medium"; and only 24.6% "low"! What's more, 96.1% have radios in their homes; 75.5% have telephones; and 75.4% own automobiles.

This, of course, is just one example of the many vital studies in the 1942 Survey. Within its 80 fact-packed pages you'll also find the answers to such hitherto puzzling questions as: What percentage of the radio audience writes to radio stations, and why? What effect does reading have on radio listening? How is radio listening affected by movie attendance? And much, much more!

Incidentally, the Summers-Whan Survey also confirms again what most of our advertisers have known for years. Namely, that WHO is Iowa's favorite radio station—"listened to most" by 60.4% of all Iowa radio families (nighttime)!

It's hot, every bit of it—the sort of dope you need to know to get top results from radio in Iowa. Send for your copy of the Survey today. No cost—no obligation.

WHO

+ *for* IOWA PLUS! +

DES MOINES . . . 50,000 WATTS
B. J. PALMER, PRESIDENT
J. O. MALAND, MANAGER
FREE & PETERS, INC. . . . National Representatives

WPB Controls All Electronic Devices

Nonessential Production Is Barred Under WPB Order

ABSOLUTE control of all electronic devices to insure essential uses covering such broadcast equipment as mikes and antennas and including tube parts, is the effect of WPB Order L-183 issued last Friday. This order does not hinder production of essential material but prevents the manufacture of such non-essential devices as blackout controls effective Oct. 3.

Under the Order, no one may manufacture, fabricate, assemble or produce electronic devices in excess of a minimum inventory required to meet deliveries or orders rated A-3 or higher. To enable minimum production requirements, inventories are permitted up to a 45-day supply but may not exceed 12½% of the total 1941 sales.

Exemptions Provided

The order also provides that no transfers may be made except where the order is rated A-3 or higher. Where the manufacture, assembling, production or transfer of electronic equipment for specific purposes is already governed by other limitation orders, the latter orders shall apply.

Exempted from the terms of this order are hearing aids, telephone and telegraph equipment, medical and therapeutic equipment and light and power equipment.

Essentially, this order is intended to prevent the production of non-essential electronic devices so that necessary parts and raw materials will be available for direct military and essential civilian uses.

As a result of the Order, material for maintenance and repair and operating supplies for essential civilian services which includes broadcasting may be obtained through the use of preference rating orders applying to the specific end use as P-129 covering radio communications. All other uses of electronic devices must be approved through the use of PD 1-A or PD-200 applications. Manufacturers of electronic equipment will continue to obtain their raw materials through the Production Requirements Plan setup.

There is no change in the manner in which a person buys replacement tubes and parts for receiving sets. The distributors of such parts may only obtain them through the use of PD 1-X, the usual distributors' application for preference. Previously no rating was needed. Supplies of replacement parts and tubes for this purpose are allocated to distributors on the basis of past sales.

Savings Expected

As explained, this order is not designed to conserve the use of raw materials but to limit the production of less essential devices. Actually this order, it was said, will effect some saving of raw materials. According to WPB estimates approximately 500 manufacturers producing about 700 items will be affected.

"Silencing of any station is not an immediate prospect but the need for conservation is immediate," FCC Chairman James Lawrence Fly told listeners Sept. 14 attending his first press conference since returning from an extended trip. Furthermore, he decried, "statements that have been made by subordinate officials as to what broadcast service is to be maintained." Additional assurance came when he said that such statements could be safely disregarded.

Fly's Criticism

"I am confident that for a substantial period, the means can and will be found," Chairman Fly said, "to maintain all the present broadcasting service, and in any case, the substantial reduction of broadcast service is not to be decided by isolated subordinate officials."

"That raises a question of national public policy and it will be decided as a matter of national policy," he concluded.

The results of the BWC tube survey have already been turned over to the Domestic Broadcasting Committee, Chairman Fly reported and said that the data provided by the report "will afford a very substantial basis for such action as the Board may take or such recommendations as it will want to forward."

He said the WPB has been able to supply all stations with necessary tubes up to now and he looked to continued aid from WPB for a "substantial period if the conservation of materials is practiced judiciously."

When the chairman was asked whether he foresaw any prospect of limiting broadcast service, he replied, "None whatsoever. I think some of the competitive sources might like to think so, but that is not true."

Text of the order follows:

Section 3037.1 GENERAL LIMITATION ORDER L-183.

(a) *Definitions.* For the purposes of this Order:

(1) "Manufacturer" means an individual, partnership, association, business trust, corporation, receiver or any organized group of persons, whether incorporated or not that manufactures, produces, fabricates and/or assembles Electronic Equipment.

(2) "Transfer" means sell, lease, trade, rent, give, deliver, or physically transfer in any other way so as thereby to make available for use a person other than the transferor.

(3) "Minimum Inventory" means the smallest quantity of electronic equipment which will satisfy anticipated deliveries for a period of 45 days in advance, but in no case shall such quantity exceed 12½% of total 1941 sales of such product or similar product unless specifically authorized by the director.

(4) "Electronic equipment" means any electrical apparatus or device involving the use of vacuum or gaseous tubes and/or any associated or supplementary device, apparatus or part therefor, except equipment listed on Schedule A. hereof.

(5) "Director" means Director General for Operations of the War Production Board or Director of Industry Operations of the War Production Board or Director of Priorities of the Office of Production Management.

(b) *General Restrictions*

(1) On and after the 15th day following the issuance of this order, and irrespective of the terms of any contract of sale, purchase, rental or any other commitment, no manufacturer, shall manufacture, fabricate, assemble, or produce any electronic equipment, in excess of a minimum inventory required to meet deliveries on orders bearing a preference rating of A-3 or higher, and no manufacturer shall transfer electronic equipment except on orders bearing a preference rating of A-3 or higher.

(c) *Exceptions*

Where the manufacture, assembly, production or transfer of electronic equipment for specific purposes is governed by other limitation orders issued or to be issued by the Director, the terms of such order(s) shall apply.

(d) *Reports.*

All persons affected by this Order shall execute and file with the War Production Board such reports and questionnaires as said board shall from time to time request.

(e) *Applicability of Priorities Regulations.*

This order and all transactions affected thereby are subject to all applicable provisions of the Priorities Regulations of the War Production Board, as amended from time to time.

(f) *Communications to War Production Board.*

All reports that may be required to be filed hereunder, and all communications concerning this Order, shall, unless otherwise directed, be addressed to: "War Production Board. Radio and Radar Branch, Washington, D. C. Ref: L-183".

(g) *Appeals*

Any person affected by this order who considers that compliance therewith would work an exceptional and unreasonable hardship upon him may appeal to the War Production Board, setting forth the pertinent facts and the reasons he considers he is entitled to relief. The Director General for Operations may thereupon take such action as he deems appropriate.

(h) *Violations.*

Any person who wilfully violates any provision of this order, or who in connection with this order, wilfully conceals a material fact or furnishes false information to any department or agency of the United States, is guilty of a crime and, upon conviction, may be punished by fine or imprisonment. In addition, any such person may be prohibited from making or obtaining further deliveries of, or from process or use of, material under priority contract, and may be deprived of priorities assistance.

(P.D. Reg. 1, as amended, 6 F.R. 6680 W.P.B. Reg. 1, 7 F.R. 561; E.O. 9024, F.R. 329; E.O. 9040, 7 F.R. 527; E.O. 9125 7 F.R. 2719; sec. 2 (a), Pub. Law 671, 76th Cong., as amended by Pub. Laws 89 and 507, 77th Cong.)

Issued this 18th day of September, 1942.

ERNEST KANZLER.
Director General for Operations.

SCHEDULE A

1. Hearing aid devices.
2. Telephone and telegraph equipment.
3. Medical and therapeutic equipment.
4. Power and light equipment.

Taft Enters Army, Church Successor

WKRC Head Reports Oct. 1 As Air Forces Lieutenant

HULBURT TAFT Jr., general manager of WKRC, Cincinnati, and son of the president of the *Cincinnati Times-Star*, has been commissioned a first lieutenant in the Army Air Forces and reports to Army Air Forces Training School at Miami Oct. 1 for six weeks basic training. Lt. Taft is taking leave of absence from his duties with the *Times Star* station for the duration. He is a graduate of Yale and also studied at Cambridge in England.

Lt. Taft

Mr. Church

Hulbert Taft Sr., president of the Times-Star Co., announced that Ken Church, director of national sales and promotion for WKRC, succeeds his son as general manager. Mr. Church joined WKRC a year ago, resigning from KMOX, St. Louis. He will continue to direct national sales, along with his management duties.

Before assuming general managership of WKRC in November, 1939, when the Times-Star Co. purchased the station from CBS, Lt. Taft had worked as reporter and editorial writer on the newspaper. He is president of the Ohio Assn. of Broadcasters and vice-president of Network Affiliates Inc.

Lt. Taft is married and the father of three children.

LARGEST SINGLE network hookup ever to be used for a regular weekly series of commercial programs will be utilized by Pharmaco Co., (Feen-A-Mint) for *Double or Nothing*, when the series jumps from 100 to 203 Mutual stations, with the Sept. 25 broadcast. Sponsor is the first to take advantage of the discount offered under the networks rate card No. 10.

To commemorate the beginning of the third year of broadcasting for the program, Robert A. Schmid, MBS director of advertising-promotion, presents a scroll to Gifford R. Hart, advertising head of Pharmaco. Wm. Esty is agency.

XUM

SOAP by the TON for Chicago Workers!

WHEN Joe W. Citizen lays down his tools at the end of his shift, he's turned out a big hunk of America's vital heavy production. He's honestly dirty and greasy and sweaty. *If you make soap, Joe's a real prospect.*

Joe is typical of thousands and thousands of *new wealthy* industrial workers out in the "Calumet Corner" of industrial Chicago. He is tough and vital. He works hard, makes big dough, and doesn't have to save it all for taxes. He is the biggest individual buyer in Chicago.

Getting your message across to Joe W. Citizen is a specialized job. Joe ain't interested in any station's power or prestige—he's interested in the nearest, clearest station that *talks his language.*

And that's WJWC. Located in the center of the fabulous Industrial "Calumet Corner" of Chicago. *Beamed to Joe's mind,* as well as his neighborhood, WJWC talks Joe's language and talks it from so close that WJWC is actually the strongest voice on the dial. . . .

Let us send you all the facts about WJWC—the *new* Chicago radio operation in the heart of one of the world's greatest working-man sections. Get the facts—that's all we ask!

WJWC

HAMMOND-CHICAGO

***Supercharged* Coverage of Chicago's *New Wealth*—the Working People!**

General Offices: 165 N. Michigan Avenue, Chicago

John W. Clarke, President -:- William R. Cline, Manager

FREE & PETERS, INC,
Exclusive National Representatives

British Still Cold to Commercial Radio

Can Teach Us How To Influence Others

Martin Codel, publisher of BROADCASTING, *is in England studying the radio setup there, particularly the growingly important international broadcasting structure and its use in the war effort. This is the first of a series to be published in connection with his visit.*

By **MARTIN CODEL**

LET'S NOT delude ourselves, nor smugly let others, about the vaunted superiority of our American system of broadcasting.

True, there is little that the Government-owned British Broadcasting monopoly can teach our private competitive system about programs, which is basic. Our people wouldn't stand for most of the programs fed the British public; by the same token, the British audience, much as it delights in *Jack Benny, Bob Hope, Command Performance*, and the few other snatches of our features broadcast over the British Broadcasting Corp., probably wouldn't stomach our commercials, which are discreetly eliminated from the rebroadcasts here, nearly all done via recordings.

It Can't Happen

That's a long story, involving endless social ramifications and theories, including the suggestion several times advanced by advertising people (mostly Americans) that after the war the BBC will need to seek commercial support. For this suggestion I've found no support whatsoever among dozens of qualified radio folk whom I have already contacted here; on the contrary, even the most liberal-minded ones, British experts who know American radio from firsthand observation, say that advertising by radio simply can't happen here.

The fact is we started our systems differently and, being creatures of somewhat different habits (albeit the war stresses are bringing about a wholesome affinity between us in radio as in other phases of our lives), we are not likely to change one another's fixed habits. Nor is there any reason why we should. The British have a wholesome respect for American radio and American radio methods, and we should have for theirs.

So far as domestic broadcasting is concerned, except for a few quirks of technique, I repeat: The British have little to teach us.

But so far as the world audience is concerned—and we must now think in global terms when considering the enormous importance of radio in the psychological phases of this war—we have everything to learn from the British radio. In fact, its foreign broadcast services are so far ahead of ours as to make us blush.

In succeeding articles, I shall attempt to outline what they are doing here with broadcasting as a weapon of war, sticking to salient facts from which I hope our Government officials charged with wartime radio tasks, and of course our broadcasters themselves, especially our shortwave broadcasters, can draw some valuable lessons.

But, first, a few human interest sidelights on radio and American radio folk in England at war.

London, which with all its air raid alerts and its many relics of the blitz really seems very much like New York, is simply bristling with Americans active or formally active in our radio industry.

Paley on Job

Bill Paley is here, conferring with Ed Murrow, chief of the CBS European service and the outstanding American radio correspondent abroad—a reporter so highly regarded here that the highest British officialdom is considering despatching, to use the words of one, "a British Ed Murrow to America, who can interpret your country to our people as well as Murrow interprets us to you."

Look for some important innovations at CBS as result of Paley's observations here, not the least of which may be a relaxation of the network rule against recordings and transcriptions. BBC does an immense job with them—but more about that later.

Jack Royal is here, reorganizing the NBC London office to which Stanley Richardson, formerly coordinator of the shortwaves for the private operators and recently Harold Ryan's assistant in the Office of Censorship, is on his way to take over as London manager. Bob St. John is going back on leave, and NBC will engage one or possibly two more London commentators, for Fred Bate is not returning and John McVane is the only one left.

JOHN ADAMS, CBS correspondent in Rio De Janeiro, with his new bride, Alva Dee Hutton, of New Cumberland, Pa., whom he married recently in Rio. The couple met through a letter of introduction from Paul White CBS director of news and public affairs. A scholarship winner of Columbia U's School of Journalism, Mrs. Adams was studying in Rio.

NBC's vice-president in charge of international broadcasting, incidentally, is also getting acquainted with his new in-laws. A few days after he married Leonora Corbett, the British star of the Broadway Company of Noel Coward's "Blithe Spirit", Jack embarked via clipper for London. The wedding created quite a stir here, and was much featured in the press.

Almost as much stir was aroused by the fact that Jack brought along with him several dozen lemons, which like steaks and orange juice are virtually a nonexistent commodity here since the outbreak. As a writer in the *London Standard* put it: "There was a minor sensation when he produced one of them in a restaurant (it happened to be the Savoy Bar, one of the best, where a Tom Collins is otherwise unobtainable. Waiters paused to admire the lemon, then passed on with a sigh."

Butcher, Too!

Lt. Com. Harry C. Butcher, erstwhile CBS Washington vice-president, is already quite the debonair Londoner, holding one of the most important jobs in town. He is naval aide to Lt. Gen. Dwight Eisenhower, Commander of the American Forces in the European Theatre, who is by way of being the Pershing of this war.

Handsome in his Navy blue, "Butch" is an extremely busy man. An intimate friend of the General, who personally asked the White House to assign him here, he lives with him in an apartment near American Forces headquarters in town. They also have a small cottage "somewhere in the suburbs" where they can get away from it all from time to time. Otherwise, they work nearly around the clock, eschewing all social functions except purely military ones.

Gen. Eisenhower, known to his intimates as "Ike", incidentally is the elder brother of Milton Eisenhower, second in command at the Office of War Information under Elmer Davis, whom the General and "Butch" want brought over here soon to study the European military phases of OWI's problems, especially radio.

Wallace Carroll arrived last week to take charge of the newly-established OWI offices, the ex-UP foreign correspondent relieving Paul Walburg, deputy to Robert Sherwood, assistant OWI director for overseas operations. Walburg has returned to Washington. Brewster Morgan, CBS producer, is to head up radio under Carroll.

Norman Corwin has finished the first takes of his *An American in London* series on CBS and intends to remain a few more weeks gathering material for further dramatizations along that line which he will write upon his return.

Here also are Lt. Barry Bingham, president of the *Louisville Courier Journal*, operating WHAS. Barry, a Navy Reserve officer recently attached to the old Office of Facts & Figures, then with OWI, is assistant public relations director for the Navy operations in the European Theatre under Com. Ben Vining, formerly with Western Electric, also a radio expert.

Lt. A. M. Wharfield, sent over by Col. Edward M. Kirby, chief of the Army's Radio Branch, has arrived on a radio mission and is stationed at Army Public Relatons headquarters where all Army public relations is headed by Lt. Col. Harold Hinton, formerly with the *New York Times* in Washington, more recently handling press and radio contacts at Camp Blanding, Florida. Col. Hinton's assistant is Maj. Joseph Philips, recently editor of *Newsweek*, who was regularly heard on its sponsored program on the BLUE. Wharfield formerly was with the Hooper Radio Research organization.

Yandell Active

At nearby American Red Cross headquarters, one of the most important posts is held by Lunsford Yandell, on leave as vice-president and treasurer of the BLUE. Yandell, the man who really set up the BLUE structure even before Chairman Fly's onslaught, is in charge of recreational facilities for our troops—what the British call "hospitality services". He finds housing for them in London and other cities while they are on leave; to him has fallen the task of setting up recreation halls canteen services set at the camps, where piping in American radio programs is an integral part of plans. The Red Cross here has been charged with the job that USO does at home.

Yandell, fine organizer, tells he has plans in mind for a super-program which may be titled *The Voice of Johnny Doughboy* and which will take the best of the talent in the camps here, weave it into a show that will be carried on the radio at home to tell the folks just how the boys live and fare here. He plans to bring over a well-known producer to do the job.

Another well-known American radio figure on duty here is a Capt. E. C. Page, recently a Washington consulting engineer, who is doing highly secret technical work for the American British Forces. I've met and talked with them all—and also with Lt. Jim Howe, recently manager of WBTM, Danville, who is assistant communications officer at the bomber port somewhere in Scotland where I arrived early this month.

COMMUNICATIONS

. . . directing arm of combat

"Get the message through!" That's the tradition of the men who wear this insignia. Of the 18,000 Bell System people now in the armed forces, nearly 4,500 are with the Signal Corps. Young men can serve their country and obtain specialized training in communications in this great branch of the Army.

...and Western Electric equipment goes to every battle front

Army planes fly and fight with Western Electric radio command sets, which keep the planes of a squadron in contact with each other and with the ground forces.

Wherever American soldiers fight in tanks, they get their orders over Western Electric radio sets — vital in coordinating today's mechanized warfare.

Observers report front-line action to Army commanders over Western Electric field telephones, field wire, field switchboards.

A major source for this specialized equipment is Western Electric—for 60 years manufacturer for the Bell System—one industry with over 70,000 skilled men and women dedicated to *"keep 'em in contact."*

Western Electric

ARSENAL OF COMMUNICATIONS

Paul M. Hollister Is Elected To Vice-Presidency by CBS

Takes Advertising and Sales Promotion Post of Network After Long Career in Agency Field

PAUL M. HOLLISTER, who resigned last month as vice-president of J. Stirling Getchell Inc., New York, has been appointed vice-president of CBS in charge of advertising and sales promotion, it was announced by Paul W. Kesten, CBS vice-president and general manager, last Monday, day that Mr. Hollister joined the network.

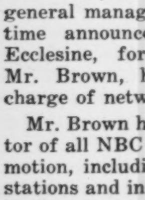
A veteran advertising man, whose career includes extensive agency experience with H. K. McCann Co. and BBDO in addition to Getchell, Mr. Hollister was for eight years executive vice-president and publicity director of R. H. Macy & Co., during which time he also served on the board of directors of Bamberger Broadcasting Service Inc., operator of WOR, New York.

MR. HOLLISTER

Mr. Kesten referred to this in his announcement, stating that: "CBS had known and dealt with Mr. Hollister for many years past, both as collaborator in his agency and retail connections and as a friendly competitor when he was a director of a New York radio station. His knowledge of practical radio goes back to its early days. He has had a hand in evolving certain of radio's progressive forms, and he knows selling from both sides of the retail counter. As a creative advertising man, CBS has regarded him as one of the leaders of his profession."

Appointment of Mr. Hollister to handle CBS promotion and advertising relieves Dr. Frank Stanton, recently named vice-president in charge of research [BROADCASTING, Sept. 7], of his supervision of the network's promotional as well as research activities, which he had maintained since the resignation of Victor Ratner as CBS promotion director in the spring of 1941.

Charles B. Brown Is Appointed by NBC As Promotion and Advertising Director



Mr. Ecclesine

CHARLES B. BROWN, formerly network sales promotion manager of NBC, has been appointed director of promotion and advertising, succeeding Ken R. Dyke, who resigned to continue his work as head of the Bureau of Campaigns of the Office of War Information.

Promotion was announced last week by Frank E. Mullen, NBC vice-president and general manager, who at the same time announced that Joseph A. Ecclesine, formerly assistant to Mr. Brown, has been placed in charge of network sales promotion.

Mr. Brown has been acting director of all NBC advertising and promotion, including network, M & O stations and institutional, since Mr. Dyke was granted a leave of absence to join the OWI some months ago, which duties he will continue. A Canadian by birth, Mr. Brown served with the Canadian Army in the first world war.

Following the Armistice, he studied at San Francisco U and the U of California. A sales job with International Magazine Co. was followed by sales promotion positions with Hodgkinson Film Co., Westgate Metal Products Co., Chevrolet Motor Co. and Commercial Soap Co.

After serving for ten years as sales promotion manager of Foster & Kleister, Pacific Coast advertising agency, Mr. Brown joined NBC in 1938 as sales promotion manager of KPO-KGO, San Francisco. A year later he was transferred to Hollywood to direct promotion for the network's Western Division and in 1940 was moved to New York as promotional head of NBC's managed and operated stations. Last year he was made promotion manager of the Red Network.

Mr. Ecclesine followed his graduation from Fordham U by entering journalism as a reporter of the *Bronx Home News*, leaving in 1937 to join the advertising and promotion department of *True Story Magazine*. After two years with the Bureau of Advertising of the American Newspaper Publishers Assn., he joined NBC's promotion staff in 1940.

MR. BROWN

NBC PAYS $71,200 FOR LOUIS BATTLE

AFTER several days of competitive bidding by the Major networks for exclusive broadcast rights to the Joe Louis-Billy Conn fight in Yankee Stadium Oct. 12, staged for Army Emergency Relief, NBC last week was awarded the contract by War Boxing, Inc., radio committee acting for the War Dept., with the highest bid of $71,200.

The bout will be broadcast on the full NBC network of 125 stations, many Canadian stations, and shortwaved all over the world by the General Electric stations, WGEA and WGEO. It will be sponsored by P. Lorillard Co., New York, for Old Golds. Account is handled by J. Walter Thompson Co., New York.

The NBC bid, believed to be an all-time high for broadcasting rights to a boxing contest, was submitted along with sealed bids from the three other major networks to a committee composed of Art Flynn, chairman; Jimmy Dawson, Wilbur Wood and Joe Cummiskey. According to C. L. Menser, NBC vice-president, in charge of programs, the high bid was made because NBC "considers the Army relief an extremely worth cause, and because of the world-wide interest in the fight."

Wyler Soup Test

WYLER & Co., Chicago (dehydrated soups, vegetable flakes, bouillon cubes), has started sponsorship for 52 weeks of thrice-weekly quarter-hour newscasts by John Holbrook on WGN, Chicago. Company is also testing seven spot announcements a week on WJLB, Detroit. Goodkind, Joice & Morgan, Chicago, is the agency.

Pabst About Ready

PABST SALES Co., Chicago (Blue Ribbon beer), which has been auditioning Hollywood variety programs for six weeks for possible network sponsorship [BROADCASTING, Aug. 31] expects to reach a definite decision on the program some time this week, according to C. H. Wolfe, advertising manager. Lord & Thomas, Chicago, is agency.

Avery Is Appointe To NAB Sales Po

Capt. Pellegrin's Succes Comes From Free & Peters

APPOINTMENT of Lew Avery, account executive of Free & Peters, Chicago, and prominently identified with radio sales, as director of broadcast advertising of the NAB, effective Oct. 1, was announced last Friday by NAB President Neville Miller.

Mr. Avery

Mr. Avery succeeds Capt. Frank E. Pellegrin, who resigned last July to accept a commission in the Army and is now serving as executive officer of the Radio Branch, Bureau of Public Relations, under Lt Col. E. M. Kirby.

Will Report Oct. 1

After six years as head of the sales department of WGR-WKBW, Buffalo, Mr. Avery joined Free & Peters at the start of 1940. He has been in the Chicago office of the pioneer station representation organization since.

While Mr. Avery does not formally report until Oct. 1, he will attend the meeting of the Sales Managers Committee of NAB in Chicago Sept. 23—in advance of the NAB Board meeting the following two days. The committee comprises John M. Outler Jr., WSB, Atlanta, chairman; Dietrich Dirks, KTRI, Sioux City, Ia.; William F. Malo, WDRC, Hartford; Frank R. Bowes, WBZ, Boston; Don Davis, WHB, Kansas City; Arthur Hull Hayes, WABC, New York (for CBS); George H. Frey, NBC, New York.

A former chairman of the NAB Sales Managers Division, Mr. Avery pioneered in the formation of the group. He began in radio in 1917, when he became a station designer, announcer, engineer, manager and owner. In April of that year—three years before the advent of broadcasting as such—he went on the air with a half-kilowatt transmitter with Leyden Jar condensers and a rotary spark gap. The station was closed under Government orders.

In 1926 Mr. Avery became an announcer and production man for WGY, Schenectady, after having served in the publicity department of GE. He joined the Mohawk-Hudson Power Corp. in 1928 as assistant advertising director. Early in 1930 he joined BBDO, New York, and was assigned to radio on all local accounts between Albany and Detroit. In 1932 he became associated with WGR-WKBW as manager of planning and service and was named director of sales in January, 1933.

XUM

The Pot is Boiling in Cowles Station's Homes!

HOME MAKER'S HELPS
NEW IDEAS
RECIPES

Eight years of service to WMT listeners puts Libbie Vaughan in the pioneer class. She's an outstanding performer, any way you want to grade home economics broadcasters.

On WNAX, Wynn Hubler is "Your Neighbor Lady" to thousands of homemakers who have learned to rely on her sound counsel and advice in food and other home problems.

Years of experience in newspaper and radio give Helen Watts Schreiber that background of authority which rings true with KSO listeners. And they do listen.

● Yes, the pot is boiling—literally and figuratively. Surveys show that the war has increased tremendously the interest of homemakers, the country over, in food and food preparation. In the Cowles Stations area, that interest has never lagged—as we recognized, years ago, the value of establishing such programs, headed up by experienced home economists.

Now, long established and stronger than ever, these programs command a still greater audience—an audience whose unusual loyalty springs from the carefully planned programs of the three Cowles Stations Kitchen Advisers.

The Cowles Group—as individual stations catering to the needs of their own specific audiences—now point their home economics programs to today's needs—aim them specifically at the problems of homemakers in a war economy. They offer the best and lowest cost answer to quick results on any food or household product—new or old—in this territory.

The cost? It's ridiculously low. Only $142.50 a week (26 week rate) for six 100 word participations each week on all three programs. Better check now to see if there are any openings.

WMT
CEDAR RAPIDS-WATERLOO

KSO
DES MOINES

THE
Cowles
STATIONS

KRNT
DES MOINES

WNAX
SIOUX CITY-YANKTON

Represented by The KATZ Agency

TEXT OF COURT DECISION IN KOA-WHDH CASE

OPINION of the U. S. Court of Appeals for the District of Columbia, No. 7933, NBC, appellant, vs. FCC, appellee and Matheson Radio Co. Inc. and Berks Broadcasting Co., intervenors, on appeal from the FCC on reargument, decided Sept. 12, follows:

Mr. D. M. Patrick, with whom *Mr. Philip J. Hennessey, Jr.*, was on the brief, for appellant

Mr. Telford Taylor, General Counsel, Federal Communications Commission, with whom *Mr. Thomas E. Harris*, Assistant General Counsel, and *Messrs. Harry M. Plotkin* and *Daniel W. Meyer*, Counsel, were on the brief, for the Federal Communications Commission. *Messrs. Charles R. Denny, Jr.*, and *Benedict P. Cottone* also entered appearances for the Federal Communications Commission.

Mr. W. Theodore Pierson, with whom *Mr. Andrew G. Haley* was on the brief, for Matheson Radio Company, Inc., Intervenor.

Messrs. Arthur H. Schroeder and *Geo. O. Sutton* filed a brief on behalf of Berks Broadcasting Company, Intervenor.

Before GRONER, Chief Justice, and STEPHENS, MILLER, VINSON, EDGERTON, and RUTLEDGE, Associate Justices.

RUTLEDGE, J. The appeal is from an order of the Commission entered April 7, 1941. The applicant (Matheson Radio Company, Inc.) operates Station WHDH at Boston, Massachusetts, and is intervenor here. Appellant operates Station KOA at Denver, Colorado, upon the same frequency, 830 kc, now 850 kc under the North American Regional Broadcasting Agreement. The order authorized increases in power and time for WHDH. Appellant claims it is aggrieved and its interests are adversely affected by the order. Hence it asserts both a right of appeal and one to hearing by the Commission, which denies both. The principal questions are therefore whether, on the showing made, (1) appellant has standing to appeal; (2) the Commission acted arbitrarily or erroneously in refusing to permit it to intervene as a party in the administrative proceedings.

KOA is a Class I station, operating since 1928 on a clear channel with 50 kw power.[1] By virtue of this classification it was the only station operating on its frequency at night prior to the order now in question. From 1930 WHDH had been a 1 kw station operating daytime only until sunset Denver time. The order modified its license to permit operation for unlimited time and with 5 kw power.

No formal or literal modification was made in KOA's license, but modifying the license of WHDH created electrical interference after sunset in KOA's secondary service area. Roughly the region affected is that lying 700 miles or more east of Denver. To accomplish this change, the Commission had to transfer the frequency 850, on which both stations operate, from subdivision (a) to subdivision (b) of Section 3.25 of its rules.[2] Accordingly the order provided for this transfer.

The substantive injury of which appellant complains consisted therefore in creating new and additional electrical interference, affecting its secondary service area; degrading the status of Station KOA from a clear channel station by reclassifying it; and, in effect though not in terms, modifying its license in these respects.

Substantive Injuries Are Considered

As appears below, appellant also asserts these changes not only affected its interests substantially and adversely, but had like effect upon the public interest, in depriving listeners within the secondary service area of its service and also in jeopardizing the status of this frequency under the North American Regional Broadcasting Agreement.[3]

The substantive injuries however, both to appellant and to the public, are set forth primarily not to secure substantive redress in this appeal, but (1) to establish appellant's standing to appeal; and (2) to show that appellant had a right to intervene in the Commission's proceedings of which it has been deprived either arbitrarily or erroneously. The case therefore raises again the troublesome question concerning who is entitled to appeal from the Commission's order and upon what showing, under the nebulous provisions of the statute in this respect;[4] and the equally difficult, perhaps more unsettled inquiry, who, if anyone, may intervene as of right in its proceedings for granting, denying or modifying a license under the equally cloudy provisions relating to these matters.

I. *The Right to Appeal*

Appellant has standing to appeal. The statute confers this upon a "person aggrieved or whose interests are adversely affected." Section 402 (b) (2). In *F. C. C.* v. *Sanders Brothers Radio Station*, 309 U. S. 470 (1940), the Supreme Court held that the licensee of a competing station likely to be financially injured qualifies for appeal. It went further and asserted that Congress "*may have been* of opinion that one likely to be *financially* injured by the issue of a license would be the *only* person having a sufficient interest to bring to the attention of the appellate court errors of law in the action of the Commission in granting the license." (Italics supplied.)

"Financially" was inserted by amendment of the opinion after the decision was first handed down. It does not follow that this guarded and speculative dictum makes economic injury the sole criterion of status to appeal, as the Commission and WHDH contend. The *Sanders* case involved on its facts only financial injury. The court held that sufficient. Though it suggested the possible insufficiency of other kinds of injury, no question concerning them was before it. The decision therefore cannot be taken as deciding such an issue.

There are strong reasons why the dictum should not be acepted as either stating or forecasting the law. Nothing in the statute specifies or requires a showing of financial injury as the exclusive basis to appeal. Nor are the hypotheses tenable that such injury is the only sort, of a substantial kind, likely to occur or that only persons financially hurt will be able or likely to appeal. It is true they probably will have the financial resources necessary for litigation. It does not follow that others, who may be affected adversely though not financially, will be neither willing nor able to appeal.

Public Interest At Stake In Appeal

The contrary assumption ignores the facts that radio broadcasting is not exclusively a matter of business or financial gain, and that it is the public interest, not the private right, which is primarily at stake upon the appeal. Unfortunately, commercial enterprise has taken over the lion's share of the field. Unfortunately, because, when radio was in its infancy, many persons hoped that much of its work would be done by educational, religious and eleemosynary institutions more than the event has permitted. Notwithstanding the policy which has so favored commercial operators, there is a considerable volume of noncommercial broadcasting. It takes place through stations supported not by advertising or "plugs," but by churches, universities, colleges, charitable foundations and others who have no profit-making revenues. Many still hope that the evils apparently inherent in commercial broadcasting yet may bring about a larger allocation of frequencies to licensees whose objects are not primarily the making of money.

Limiting appeals to persons financially injured would have the practical effect of denying them to nonprofit-seeking broadcasters. Conceivably, in very rare instances, such operators could show financial injury. But obviously they could not do so in the circumstances in which commercial stations are able most frequently to demonstrate its possible incidence. The view cannot be accepted that these stations can appeal only when some action of the Commission has the practical effect of destroying their capital investment. Such a view would not be consistent with the public interest and right which is the foundation of all broadcasting and which primarily the commercial broadcaster's appeal is designed to protect. *F. C. C.* v. *Sanders Bros., supra.*

Appellant's Claim of Electrical Interference

The latter is likely to utilize the public interest as a vehicle for protecting his private standing, however tentative that may be in legal status. Few business institutions rush to the defense of the public weal when they are not affected in any private way. As between such operators, therefore, and the noncommercial broadcaster, the latter cannot be held a knight unworthy, unable or unwilling to battle for the general good in the lists of appellate litigation. Congress had no intention to exclude nonprofit stations from taking appeals, either absolutely or in practical effect. And if they can appeal by showing other than financial injury, so also can commercial operators.

Absence of economic injury however does not amount to presence of other sufficient injury. Appellant asserts it

(*Continued on page 24*)

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[1] Under Sections 3.22 and 3.25 of the Commission's Rules and Regulations, the following provisions concerning clear channel stations are made:

"§ 3.22 *Classes and power of standard broadcast stations—(a) Class I station.* A 'Class I station' is a dominant station operating on a clear channel and designed to render primary and secondary service over an extended area and at relatively long distances. Its primary service area is free from objectionable interference from other stations on the same and adjacent channels, and its secondary service area free from interference, except from stations on the adjacent channel, and from stations on the same channel in accordance with the channel designation in § 3.25 or in accordance with the 'Engineering Standards of Allocation' at page 2756. The operating power shall be not less than 10 kw nor more than 50 kw (see also § 3.25 (a) for further power limitation)."

"§ 3.25 *Clear channels; class I and II.* The frequencies in the following tabulation are designated as clear channels and assigned for use by the classes of stations as given:

"(a) To each of the channels below there will be assigned one Class I station and there may be assigned one or more Class II stations operating limited time or daytime only: 640, 650, 660, 670, 700, 720, 740, 750, 760, 770, 800, 810, 820, 830, 850, 860, 870, 980, 1,000, 1,070, 1,090, 1,130, 1,150, 1,170 and 1,190 kilocycles. The power of the Class I stations on these channels shall not be less than 50 kw.

"(b) To each of the channels below there may be assigned Class I and Class II stations: 680, 710, 790, 970, 1,020, 1,040, 1,050, 1,060, 1,080, 1,100, 1,110, 1,140, 1,160, 1,180, 1,460, 1,470, 1,480, and 1,490 kilocycles." CODE OF FED. REG. (Supp. 1939) 2742, 2744.

[2] See Note 1 *supra*. Various contentions made with reference to this change, as being one in policy, "legislative" or "judicial" in character, made upon hearing before an improper official, *i. e.*, an examiner, etc., are not considered herein, since other and more important issues are sufficient to dispose of the appeal.

[3] Par. B, 8 (d) of Part II of this treaty provides: "If within the period of this Agreement the country to which a clear channel has been assigned shall have made use of the channel but not in the manner above described or not to the extent required by the provisions of this Agreement, such country shall be considered as having relinquished that portion of the rights which it has not used and at the expiration of this agreement, the other countries party thereto shall have the right, if they see fit, to withdraw the unused privileges from such country and to reassign them to any or all of the other interested countries.

[4] The question has been presented here and in the Supreme Court in numerous cases. *E. g.*, Sanders Bros. Radio Station v. F. C. C., 70 App. D. C. 297, 106 F. (2d) 321 (1939), *rev'd on other grounds*, 309 U. S. 470 (1940); WOKO, Inc. v. F. C. C. 71 App. D. C. 228, 109 F. (2d) 665 (1940); Yankee Network, Inc. v. F. C. C., 71 App. D. C. 11, 107 F. (2d) 212 (1939); Stuart v. F. C. C., 70 App. D. C. 265, 105 F. (2d) 788 (1939); Pittsburgh Radio Supply House v. F. C. C., 69 App. D. C. 22, 98 F. (2d) 303 (1938); Red River Broadcasting Co. v. F. C. C., 69 App. D. C. 1, 98 F. (2d) 282 (1938), *cert. denied*, 305 U. S. 625 (1938); Pulitzer Pub. Co. v. F. C. C., 68 App. D. C. 124, 94 F. (2d) 249 (1937).

DR. WALTER H. EDDY, president of the American Institute of Food Products, signs a contract with WOR, New York, for *Food Forum*, five-weekly series to start Sept. 28 for food producer members of the Institute. Present at the signing: Robert A. Bories, general manager of the Institute; Eugene S. Thomas, WOR sales manager, and Ella Mason, assistant to Dr. Eddy on the broadcast.

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● The key to the Nashville market is WSIX. This station's coverage shows 610,984 population in 0.5 MV contour, and a total of 1,264,494 population within 0.1 MV contour.

The booming Nashville area of Middle Tennessee and Southern Kentucky offers national advertisers a prime market for present or pending schedules. With money to spend as never before, this market is spending it for nationally-advertised products over this station.

SPOT SALES, INC., National Representatives

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WSIX

"The Voice of Nashville"

NASHVILLE, TENN.

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Control the microphone!

That order is foremost in the minds of Axis war lords. For, in Hitler's book, radio is the most effective means of spreading lies and propaganda among his own people; of sowing confusion, fear and distrust throughout occupied countries.

In this free country of free radio, we know why the microphone ranks high in Axis strategy. Radio is listened for . . . heard . . . believed. That is why we, the people of radio—the owners, managers, producers, writers, technicians, announcers — must be careful of our trust, must always keep before us this question:

Are we using radio to the fullest extent to do the most good for the common cause?

Let station managers analyze their operations, use every possible moment of air time in service of the nation.

Let script writers inject the spirit of freedom into every phrase and sentence.

Let musical directors search more diligently for music that will inspire.

Let advertisers and agencies choose programs which will build morale.

Let commercials sell the idealism of America, as well as its goods and services.

Let us make the most of our microphones!

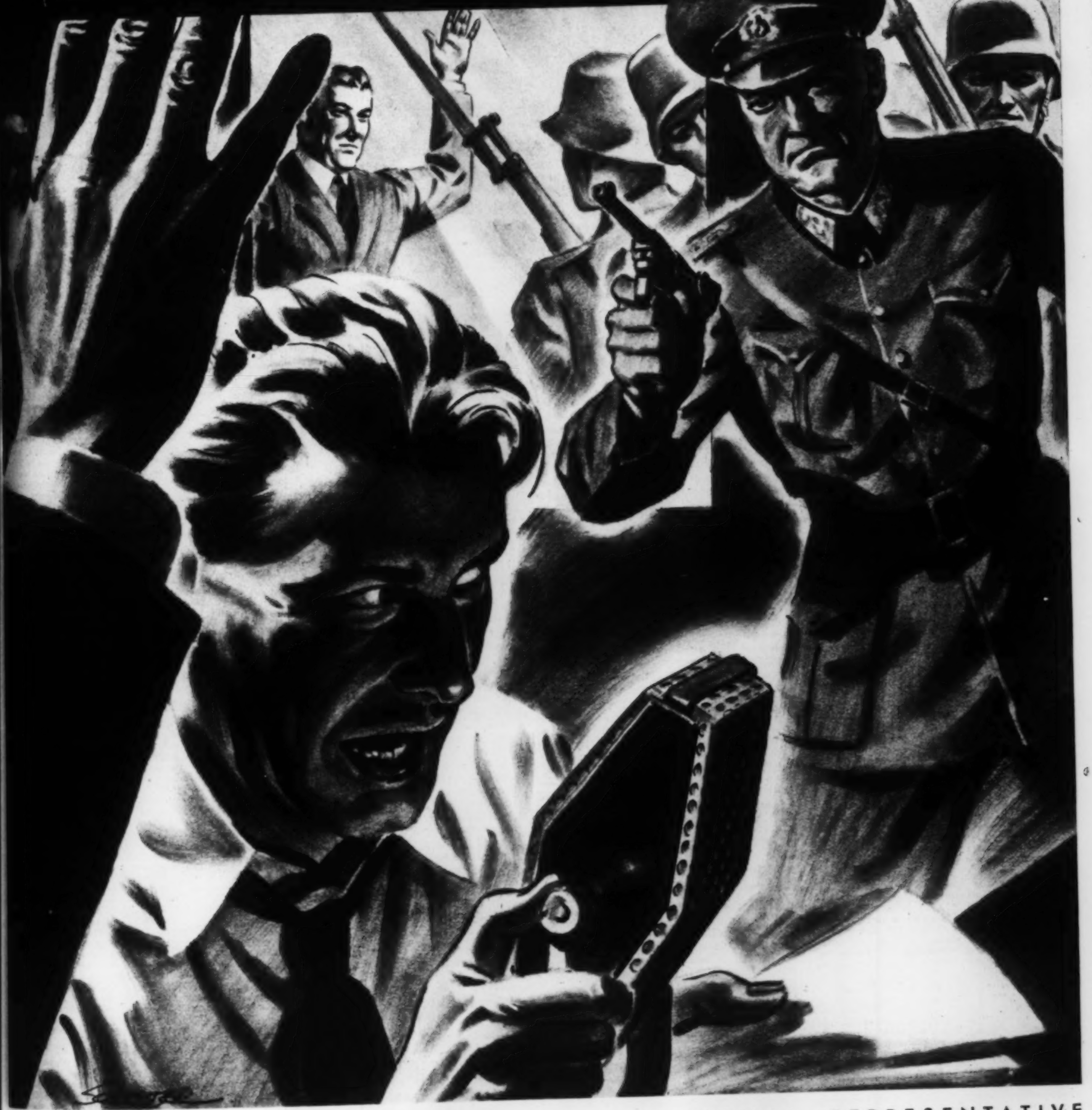
RADIO
IN SERVICE OF HOME AND NATION

WJR
THE GOODWILL STATION
Detroit
WGAR
THE FRIENDLY STATION
Cleveland

The Great Stations of the Great Lakes
KMPC, BEVERLY HILLS, CALIF.—UNDER SAME MANAGEMENT

BASIC STATIONS—COLUMBIA BROADCASTING SYSTEM . . . G. A. RICHARDS, PRES.

Mikrophon!



PRES. EDWARD PETRY AND COMPANY, INC., NATIONAL REPRESENTATIVE

XUM

is enough that the order creates electrical interference. This the Commission now denies, in reversal of its apparent position prior to the *Sanders* decision.[5] Appellant argues that electrical interference, regardless of amount or effect, creates the right of appeal.

To support this it points out that the whole occasion for regulation, including the feature of license, arises from the limited number of frequencies and the chaos electrical interference would cause, indeed did cause,[6] if there were no authority vested with power of license, allocation and police.

It is not necessary, however, to go so far with appellant. In the present stage of radio, very few changes, either in frequency or in power, can be made without creating some degree of electrical interference. This may range from minute and practically harmless interruption with remote and very occasional listeners in secondary service areas to total obliteration in the primary field. Notwithstanding the Commission's apparently contrary view,[7] the latter effect would appear to be more than sufficient for appeal, whether or not a showing of financial injury could be made. Likewise, at the other end, it seems doubtful that an infinitesimal amount of new electrical interference should create standing to appeal.

Presumably by the decision in the *Sanders* case the Supreme Court intended that the financial injury must be something more than nominal or highly speculative. It seems not unreasonable to read the opinion as requiring by implication that there be probable injury of a substantial character. So much by way of limitation seems necessary to prevent vindication of the public interest from turning into mass appeals by the industry at large, with resulting hopeless clogging of the administrative process by judicial review.

Likewise, with electrical interference, it is hardly necessary to secure appellate championship by every broadcaster who may be affected in only a remote and insubstantial manner. It follows that electrical interference, without a showing of financial injury, may be sufficient to create standing to appeal. But for this purpose there must be a reasonable possibility that it will be substantial. And this must appear, as we have held, from the notice of appeal and statement of reasons. *Yankee Network, Inc.* v. *F. C. C.*, 71 App. D. C. 11, 107 F. (2d) 212 (1939)

Appealable Interest Shown by Appellant

In this case the notice sufficiently discloses appealable interest. It states that appellant is aggrieved and its interests are adversely affected by the order and by its reaffirmance on denial of appellant's petition for rehearing; sets forth in detail the nature and steps of the proceedings before the Commission; and states, among reasons relied upon, that the order:

MOLLY PICON signs for the new fall and winter program of Maxwell House Coffee and Diamond Crystal Salt, products of the General Foods Sales Co. Her new feature, *Molly Picon's Theatre of the Air*, will be featured Tuesdays at 8 p. m., WHN, New York, beginning Oct. 6. Photo taken at conference shows (l to r) Molly Picon; Clarence B. Goshorn, president of Benton & Bowles, handling the account; Esty Stowell, business manager of B. & B. radio department; Robert H. Bennett, associate advertising manager of General Foods Corp. in charge of Maxwell House Coffee; Joseph Jacobs, of Jewish Market Organization.

"(a) Results in a *substantial* modification of the license held by appellant . . . without having afforded it an opportunity to be heard as required by Section 312 (b) of the Communications Act of 1934." (Italics supplied)

"(b) Results in a change in the class and character of the frequency . . . without consent or hearing as required by Section 303 (f)."

"(c) Results in a degradation of service on 830 kc (850 kc) which will be prejudicial to the priority rights of the United States on this channel under Paragraph B 8 (d) of Part II of the North American Regional Broadcasting Agreement without affording appellant an opportunity to be heard on its own behalf and on behalf of the listeners it serves."

"(d) Results in a discrimination against service to rural listeners in order to furnish additional service to the residents of the City of Boston and as such is violative of the requirements of Section 307 (b) of the Communications Act of 1934."

Other assigned reasons include assertedly improper procedures in changing Commission policy, failure to return the application as required by its rules, amendment of the rules under improper notice, insufficiency of the evidence to support the decision, denial of hearing according to due process of law, etc.

On its face, therefore, the notice charges that the order substantially modified the license of KOA, changed the class and character of its frequency, degraded the station's service under the North American Agreement; jeopardized thereby not only appellant's rights but the priority rights of the United States and therefore the interests, present and future, of the listening public, and created discrimination against rural and in favor of urban listeners contrary to statutory requirements. These reasons appear to be a sufficient showing of both private and public interest and of adverse affectation to sustain the appeal. They require that it be considered on the merits, that is, on the question whether appellant was wrongfully refused a hearing before the Commission.

II. *The Right to Hearing*

The extent of the conflict concerning intervention appears from the extreme positions taken by appellant, on the one hand, that such a right arises from the Fifth Amendment as a matter of due process of law, and by the Commission and WHDH, on the other, that Congress has given the former an absolute discretion which nothing in the Constitution inhibits or limits.

It is said that existence of a right of appeal presupposes a right to intervene. The statute does not expressly so provide. But in view of our conclusion, for reasons to be stated, that appellant was entitled to intervene, it is not necessary to decide whether in some unusual circumstance one not entitled to become a party might appeal.

Commission Argument Declared Untenable

On the other hand, the Commission's argument is untenable that appellant has no right to be heard because it has no vested right in the frequency, or in its license or status thereunder, *F. C. C.* v. *Sanders Bros., supra*, or because the statute empowers the Commission to make rules and regulations, Section 154 (i), and to "conduct its proceedings in such manner as will best conduce to the proper dispatch of business and to the ends of justice." Section 154 (j). The fallacy is that one who has no such vested right has therefore no procedural protections in relation to the more tenuous rights, privileges or status he possesses.[8] Whatever its proper label, "qualified right," "privilege," "status," "licensee," appellant acquired something of value by virtue of its license and the statute. The label is not important. The fact that appellant has fulfilled statutory conditions and has received statutory advantages, status and protections is important. *Tutun* v. *United States*, 270 U. S. 568 (1926). That it may be deprived of these and that the Commission has discretion to take them away, wholly or in part, do not mean that it can do so in an unfair manner or without hearing[9] The protections of procedural due process do not disappear because the substantive right affected is not a full-grown vested right like that in one's castle at the common law. The right of appeal in capital criminal cases is entirely statutory. But that does not put it entirely beyond consitutional limitation. *Cf Boykin* v. *Huff*, 73 App. D. C. 378. 121 F. (2d) 865 (1941), and authorities cited. Similarly, though statutory rights in the nature of occupational license, revocable in administrative discretion, may not be "property" for purposes of protections afforded by substantive due process, they are not unguarded against arbitrary administrative action.[10] Procedural due process protects them against this, and does so notwithstanding the broad rule-making power and discretion given the Commission concerning the manner of conducting its business.

The crucial issue therefore comes down to whether appellant has been deprived of an opportunity for a fair hearing to which it was entitled either by the statute or by elementary due process. The two prongs of the question may be considered together. I will aid first to set forth the statutory provisions concerning hearing a those provided by the Commission Rules and Regulations which are pertinent both to hearing and to intervention. These then may be considered in the light of what was done by appellant and the Commission.

A. *The Statutory Provisions and Scheme of Hearings*

Provisions concerning hearings a contained in Sections 309 (a), 30 (f), 312 (a), (b), and 409 (a) of the Act,[11] in addition to Section 15 (i), (j) referred to above.

Section 309 (a) relates to applica-

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[5] The controversy in that case, and previously, concerning Section 402 (b) (2) was with reference to whether financial injury was sufficient, it being apparently the Commission's position that injury from electrical interference was the most that Congress had in mind in enacting this section.

[6] Prior to the Radio Act of 1927, and following the decision in United States v. Zenith Radio Corp., 12 F. (2d) 614 (N. D. Ill. 1926), and the Attorney General's opinion OPS. ATT'Y GEN. (1926) 126. See MONOGRAPH OF THE ATTORNEY GENERAL'S COMMITTEE ON ADMINISTRATION PROCEDURE, PART 3, FEDERAL COMMUNICATIONS COMMISSION (1940) 83.

[7] The Commission's position that only financial injury, whether or not resulting from electrical interference, is sufficient for appeal necessarily means that electrical interference without financial injury, regardless of the extent or effect of the interference, would be no basis for appeal. Generally, of course, extensive interference would cause financial injury. But it is not clear this would be true of nonprofit stations or necessarily, perhaps, always in other cases.

[8] See Davis, *The Requirement of Opportunity to be Heard in the Administrative Process* (1942) 52 YALE L. J. 1093, 1118-25, and authorities cited and discussed therein.

[9] *Ibid.*

[10] *Ibid.*

[11] 48 STAT. 1082, 1085, 1086-7, 10 (1934), 47 U. S. C. §§ 303 (f), 309 (a), 312 (a), (b), 409 (a) (1941).

§ 303 (f). "Make such regulations not inconsistent with law as it may deem necessary to prevent interference between stations and to carry out the provisions of this chapter: *Provided, however,* That changes in the frequencies, authorized power, or in the times of operation of any station, shall not be made without the consent of the station licensee, unless, after a public hearing, the Commission shall determine that such changes will promote public convenience, or interest or will serve public necessity, or the provisions of this chapter will be more fully complied with."

§ 309 (a). "If upon examination of any application for a station license or for the renewal or modification of a station license the Commission shall determine that public interest, convenience, or necessity would be served by the granting thereof, it shall authorize the issuance, renewal, or modification thereof in accordance with said finding. In the event the Commission upon examination of any such application does not reach such decision with respect thereto, it shall notify the applicant thereof, shall fix and give notice of a time and place for hearing thereon, and shall afford such applicant an opportunity to be heard under such rules and regulations as it may prescribe."

§ 312 (a). "Any station license may be revoked for false statements either in the application or in the statement of fact which may be required by section 308 hereof, or because of conditions revealed by such statements of fact as may be required from time to time which would warrant the Commission in refusing to grant a license on an original application, or for failure to operate substantially as set forth in the license, or for violation of or failure to observe any of the restrictions and conditions of this chapter or of any regulation of the Commission authorized by this chapter or by a treaty ratified by the United States: *Provided, however,* That no such order of revocation shall take effect until fifteen days' notice in writing thereof, stating the cause for the proposed revocation, has been given to the licensee. Such licensee may make written application to the Commission at any time within said fifteen days for a hearing upon such order, and upon the filing of such written application said order of revocation shall stand suspended until the conclusion of the hearing conducted under such rules as the Commission may prescribe. Upon the conclusion of said hearing the Commission may affirm, modify, or revoke said order of revocation."

§ 312 (b) "Any station license after June 19, 1934, granted under the provisions of this chapter or the construction permit required hereby and after such date issued, may be modified by the Commission either for a limited time or for the duration of the term thereof, if in the judgment of the Commission such action will promote the public interest, convenience, and necessity, or the provisions of this chapter or of any treaty ratified by the United States will be more fully complied with: *Provided, however,* That no such order of modification shall become final until the holder of such outstanding license or permit shall have been notified in writing of the proposed action and the grounds or reasons therefor and shall have been given reasonable opportunity to show cause why such an order of modification should not issue."

§ 409 (a). "Any member or examiner of the Commission, or the director of any division, when duly designated by the Commission for such purpose, may hold hearings, sign and issue subpoenas, administer oaths, examine witnesses, and receive evidence at any place in the United States designated by the Commission; except that in the administration of sections 301-362 of this title an examiner may not be authorized to exercise such powers with respect to a matter involving (1) a change of policy by the Commission, (2) the revocation of a station license, (3) new devices or developments in radio, or (4) a new kind of use of frequencies. In all cases heard by an examiner the Commission shall hear oral arguments on request of either party."

Now, even Goldbricks* get up early

Lois January is our candidate for the Congressional Medal and a D.S.C.

She gets the soldiers (and sailors and marines, too) up—*on time!*

Lois is WABC's, and the Service Men's, "Reveille Sweetheart". Skilled in the ways of movie, stage and radio entertainment, from 5:30 to 6:30 every morning, Lois broadcasts to the boys at *more than 50* camps and stations in this area the popular music, the song, the friendly talk and banter *they* want to hear. (Maybe you've never tuned in a radio at that time. But that's the *precise* hour when service men, all over America—*even the Goldbricks*—do *their* radio listening.)

Do they like it? You ought to read their mail ... their requests for photos of Lois, for favorite tunes! And above all—their appreciation to her and WABC for making the first 30-60 minutes before they "fall in" a pleasant experience such as their fathers, in '17 and '18, never knew.

***Goldbrick. n. Army slang. One who holds lantern while fellow soldiers dig ditch. See also "dog robber," "the Old Man's pride and joy." Syn. "Topkick's Tootsie," "cinch soldier."**

WABC 50,000 WATTS, NEW YORK • 24-HOUR SERVICE TO THE WORLD'S LARGEST MARKET

Owned and operated by the Columbia Broadcasting System. Represented nationally by Radio Sales with offices located in Chicago, Los Angeles, St. Louis, San Francisco, Charlotte.

RESPLENDENT in navy blue and gold braid, Ensign Vern Brooks (center), former supervisor of announcers of WGN, Chicago, shakes hands with Frank P. Schreiber (extreme right), manager of WGN, as he bids fellow workers goodbye on his departure for indoctrination study at South Boston, Mass. Staff members on hand for the sendoff were (l to r) George Harvey and Jim Anderson, sales; Johnny Meagher, publicity and special events; Rose Brewer, sales; Claire Oldsen, programming; Ronny Ducey, sales; Laura Predbeck, traffic; W. A. McGuineas, sales manager; Carl J. Meyers, supervisor of engineers; and Mr. Schreiber.

tions for license, for renewal and for modification. The Commission is authorized to issue, renew or modify the license if, *upon examination of the application*, it determines that public interest, convenience or necessity would be served by *granting* it. If it does not reach *such* a decision on examining the application, then it must set the matter for hearing, "notify *the applicant* . . . and afford *such applicant* an opportunity to be heard under such rules and regulations as it may prescribe." (Italics supplied)

Authority of FCC Under Section 303 (f)

Under Section 303 (f) the Commission is authorized to "make such regulations *not inconsistent with law* as it may deem necessary to prevent interference between stations and to carry out the provisions of this Act," but with the proviso that "*changes in the frequencies, authorized power, or in the times of operation* of any station shall not be made without the consent of *the station licensee* unless, *after a public hearing*, the Commission determines that such changes will promote public convenience or interest or will serve public necessity, or the provisions of this Act will be more fully complied with . . ." (Italics supplied) These are the most important provisions presently involved.

Section 312 (a), (b) requires hearing with notice to the station licensee when revocation or modification of license is proposed. In the case of modification the licensee is to be "given reasonable opportunity to show cause" why the order should not issue, after having notice in writing.

By Section 409 (a) a commissioner or examiner or the director of a division is empowered, when designated by the Commission, to hold hearings, except an examiner may not do so in administration of Title III with respect to a matter involving: "(1) a change of policy by the Commission, (2) the revocation of a station license, (3) new devices or developments in radio, or (4) a new kind of use of frequencies. In all cases heard by an examiner the Commission shall hear *oral arguments* on request *of either party*." (Italics supplied)

As has been noted, Section 154 (i), (j) confers broad power upon the Commission to make rules and regulations, issue lawful orders and determine the manner of conducting its business.

Before turning to the regulations we may note that Section 309 (a) does not *in terms* guarantee an applicant or anyone else a hearing in all cases. The matter may be determined upon examination of the application, if in that manner the Commission is able to conclude that the application should be *granted*. In other words, the applicant is not entitled to a hearing if the action is to be in his favor. On the other hand, if the Commission cannot decide for him by merely examining the application, it must afford *him* a hearing with due notice. In short, it cannot deny the application without a hearing and the applicant is a necessary party. Whether other persons who may be affected, including existing licensees, are or may be entitled to a hearing is not determined explicitly or perhaps implicitly by this section. It is primarily an applicants' section and deals chiefly, though not necessarily exclusively, with applicants' rights.

Section 312 (a) (revocation), (b) (modification), on the other hand, deals primarily with rights of existing licensees. Hearing on notice is prescribed. When the question is modification *the licensee* must be given "reasonable opportunity to show cause" why the order should not issue. When it is revocation the hearing is to be "conducted under such rules as the Commission may prescribe." In contrast with Section 309 (a), Section 312 deals expressly and therefore primarily, not with applicants and their rights, but with licensees and their rights. Under the one applicants cannot be affected adversely without a hearing; under the other licensees cannot be so affected by revoking or modifying the license without a hearing. Neither section purports to make the hearing provided *ex parte* or to limit it in the one case to applicants, in the other to licensees. But neither purports to bring in others or give them a right to come in. Though others are not expressly excluded, the theory seems to be in each instance that the hearing is principally, though not necessarily exclusively, for the benefit of the applicant in the one case, of the licensee in the other. Neither section is designed on its face explicitly to take care of the situation where the interests of an applicant and an existing licensee or of two licensees clash or may do so.

Reasonable Opportunity For Licensee

Section 303 (f) is in terms, particularly of the proviso, much like Section 312 (a), (b), in that it provides expressly for public hearing concerning "changes in the frequencies, authorized power, or . . . times of operation," unless "the station licensee" consents to the change. It is not stated explicitly that he is entitled to notice and participation in the hearing, but that seems clearly implied from the provision for hearing and prohibition of these changes without it unless he consents. Furthermore, the section contains no explicit statement concerning notice to or participation by any other person. On its face therefore the provisions of Section 303 (f) concerning hearing and the licensee's participation are much like those of Section 312 (b) dealing with modification, though in terms they are not entirely identical.[12] In a broad sense both may be said to deal with modification and both to require hearing, unless the licensee affected consents to the change. This is true, notwithstanding Section 303 (f) in its principal grant of authority is, as is noted later, primarily a rule-making or "legislative" section, and the proviso is in one aspect a limitation upon the Commission's rule-making power.

But to regard Section 303 (f) as merely a duplicate or alternative provision to Section 312 (b), for protection of the licensee when his license is to be modified adversely, would make it practically superfluous. This would also ignore the primary clause and purpose of Section 303 (f), as well as the differences in express terms of the two sections.[13] The proviso is merely an incident or a limitation of the main provision, which is a grant of power to the Commission to "make such regulations *not inconsistent with law* as it may deem necessary *to prevent interference* between stations and to carry out the provisions of this Act." (Italics supplied)

Multiple-Party Subject Matter Is Involved

The principal concern of the section is interference, and the limitations of the proviso, including the requirement of hearing, relate to matters most likely to cause and most directly related to interference. In contrast with Sections 309 (a) and 312 (b), which are primarily one-party sections, Section 303 (f) deals with subject matter which necessarily involves at least two private parties in addition to the Commission, with the principal occasion for difference and dispute between or among them, namely, interference, and with the chief causes of this. The section is therefore basically a two-party or multiple-party section, not counting the Commission.

This is true notwithstanding the primary clause is cast in terms of delegating rule-making power to the Commission concerning the subject matter. It is nevertheless multiple-party subject matter. The parties affected may be two or more existing stations, or they may be one or more such stations and an applicant or applicants for license. The section does not literally designate others than "the station licensee". But it necessarily contemplates, from the very nature of the subject matter, that others similarly situated will be similarly affected, and the only persons who may be so affected are other licensees and applicants.

In my judgment this fact is of paramount importance, for determining both what is meant by "changes in the frequencies, authorized power, . . . times of operation" and the nature and character of the hearing required, each a matter in fundamental dispute here. Conceding, as I think we may, that Sections 309 (a) and 312 (b) are primarily one-party sections, that is, they involve ordinarily one party in addition to the Commission itself, and the hearings they provide are chiefly, though not necessarily exclusively, for determining matters in the first instance between the Commission and an applicant in the one case and it and a licensee under prospect of having the terms of his license changed in the other, Section 303 (f) is from the outset no such one-sided matter.

It is essentially one which from the start raises issues affecting not only the Commission, but also other persons who as among themselves are opposed in interest. The conflict is not, even in the initial stage, merely Commission-applicant, as in Section 309 (a), or Commission-licensee, as in Section 312 (b). It is Commission-licensee-applicant or Commission-licensee-licensee. It is three-way, and it may turn out to be adverse three ways.

In my opinion this paramount fact makes the hearing provided by Section 303 (f) an essentially different kind of hearing or stage in hearing from those provided and required by Sections 309 (a) and 312 (b). In the first place, it differentiates that hearing from the one provided by Section 312 (b) and prevents it from becoming a mere duplicate or alternative of the latter. If their issues, purposes and application were identical, there would be no need for two such explicit, and to some extent inconsistent, provisions for hearing.

The mere fact that the modifications which might be involved in the hearing under Section 312 (b) are broader and more inclusive than those specified in Section 303 (f) does not explain the duplicate provision, since the latter includes the most important respects in which modification might be required under Section 312 (b). But beyond this, the two sections have or are likely to have entirely different consequences. Many of the modifications which may be proposed under Section 312 (b) relate to matters affecting only the Commission and the particular licensee, in other words, do not affect other licensees or applicants.

Two Sections Have Different Consequences

They involve such things as equipment, observance of regulations in broadcasting, etc., essentially Commission-licensee issues and only such. Hence, in these cases, there would be no need for giving notice and right to participate to other persons. Consequently provision for such notice and participation was not included and the Section provides these protections only for the person necessarily and ordinarily affected, the licensee faced with possible modification of the terms of his license. It does not exclude others, but it gives them no right to come in at this stage. The Commission may permit them to do so in its discretion. But it is not required to admit them until it becomes apparent their rights also may be affected.

It would be a very strange thing, however, for Congress to insist upon notice and hearing when the issues lie merely between the Commission and one party, whether applicant or licensee, and to ignore entirely or fail to make similar provision in the much more highly controversial three-party situation.

It would be even more strange for it to guarantee these safeguards to one of the parties in the latter situation, as against both the Commission and the other party interested, but deny it to the latter or leave his right to be heard entirely within the Commission's unlimited discretion, especially when he is or may be the only one adversely affected.

In my opinion Congress did neither. Framing Sections 309 (a) and 312 primarily for one-way conflicts, it left the more complex multiple-party situation to be dealt with by Section 303 (f). And in doing so, while it gave the Commission large discretion and rule-making power, it provided specifically for public hearing upon proposed changes relating to the most important causes of interference and of conflict and dispute between licensees or between them and applicants.

This section therefore is distinguishable from Sections 309 (a) and 312

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[12] Section 312 (b) is cast in terms of notice and "to show cause," specifying that notice be given the operator whose license is to be modified. Section 303 (f) has no express provision for notice and merely requires "public hearing" when "the station licensee" does not consent to the proposed change. Section 303 (f) also deals only with "changes in the frequencies, authorized power, or . . . times of operation," not broadly with *modification* of station *license*, as does Section 312 (b). Section 303 (f) is not limited in terms to changes made *in the license* itself, while Section 312 (b) is so limited in its terms.

[13] See note 11 *supra*, and *circa* note 12 *supra*.

Something in the Air...

The greatest force that man has ever known for moving men's hearts and minds is in action daily behind the American scene—a household device that brings into tens of millions of living rooms the latest news of our fighting men on all fronts . . . the sublime gifts of inspiring music... the quick tonic of comedy and laughter . . . the welcome relaxation of popular song... blessings all to a nation occupied with the grimmest of tasks.

Today, as America's manpower and industrial might begin to make themselves felt on foreign fields, American radio is functioning smoothly, quietly, efficiently, to strengthen morale on the home front and solidify the national purpose for the great drive to victory.

Fittingly, America's oldest network begins its 1942-43 season with the finest parade of programs in its history—many of them shortwaved to the fighting forces by advertisers glad to provide the boys in the field with these tangible links to home, many others fresh from successful summer tours of leading military camps across the country*.

They'll be listened to this year more widely, more eagerly, more gratefully than ever.

The Network Most People Listen to Most

a Radio Corporation of America Service

*Sixteen advertisers have already taken advantage of the new NBC Full Network Plan to bring 23 of their programs to the audiences of all 125 NBC stations. A great many are also participating in NBC's unique "Fall Parade of Stars," a preview audience build-up campaign being conducted by all NBC stations.

TWO FIRSTS occurred with launching Sept. 8 of the weekly half-hour NBC *Johnny Presents Ginny Simms*, under sponsorship of Phillip Morris & Co. (cigarettes). It was first West Coast production venture of the Biow Co., agency servicing the tobacco account, and Miss Simms' first assignment as m. c. Conferring over last-minute program details (l to r) are Milton H. Biow, New York president of Biow Co.; Miss Simms, star of the show; Vick Knight, executive producer of the agency.

(b), in necessarily bringing together from the start the private parties with clashing interests; as well as the Commission with which each may be at odds, and in providing a hearing for disposition of these issues. Congress, in providing for this hearing, did not intend only one of the affected partes to have notice and be heard.[14]

The section is not aptly drawn, particularly in the language which provides for the hearing. But only superficial reading would lead to the conclusion that only one of the interested parties is given right to a hearing. Literally read, the section merely requires a hearing if the changes specified are to be made "without the consent of the station licensee."

There is no provision, as there is in Sections 309 (a) and 312 (a), (b), for notice or for any specified person to be heard. As has been said, it is only by implication from the condition of "the station licensee's" failure to consent to the proposed change that his protections in these respects can be found within the section's terms. So much, however, is necessary, unless the "public hearing" is to be one at which no one but the Commission would have the right to appear and participate.

Vital Issue Narrowed By Terms of Law

What is more important, the section does not in terms identify the "station licensee" whose consent is required if hearing is dispensed with and who, by implication, is entitled to hearing if he does not consent. Presumably, though by inference, he is or may be the licensee in the terms of whose license some change is proposed. But the section does not say this explicitly. In this respect also it differs in terms from Section 312 (b).

The latter relates expressly to modification of "station license," and prohibits making the order until "the holder of such outstanding license" is given notice and hearing. No such explicit terms appear in Section 303 (f). It nowhere mentions "station license" or "modification" of license. It does refer to "station licensee," but in no way, except by possible implication, does it identify him as the "holder of the outstanding license" which is to be "modified" in terms, or exclude the licensee whose operations may be more seriously affected, even destroyed, by favorable changes made in another operator's license. In short, section 303 (f) is drawn in different terms and, in my opinion, for different purposes, from Section 312 (a), (b).

Literally the hearing provision relates to "changes in frequencies, authorized power, or . . . times of operation," not to "modification" of outstanding licenses. Literally also it requires the consent "of the station licensee," if the change is made without hearing, and hearing if such consent is not given. But it does not specify whether the licensee is one in the terms of whose license a change is to be made or one only affected by a change made in another's license or by granting a new application. This further narrows the crucial issue.

The Commission asserts the only person entitled to hearing under Section 303 (f) is the station licensee in whose license the change is made. Hence, in its view, KOA had no right under the section to be heard, since there was no change in its license and it continued free to operate on the same frequency, power and time after WHDH's application was granted as before. This view is presented with vigor and combatted with equal force.

Much of the argument revolved pedantically about the difference between "in" and "of," that is, whether "change *in* frequency" means "change *of* frequency," as if the two forms might not mean the same thing and that as well what the one as what the other asserts. The controlling principles of construction are greater than prepositional hairsplittings.

Basic Nature of Subjects Involved

The Commission's interpretation, though possible upon the language, would ignore the fundamental character of the subject matter and of the controversies as well as the conflict of interests; make the section's provision for hearing one-sided; exclude one of the private parties interested and, in some instances, as in this case, the only one adversely affected; make the section a merely narrower duplicate of Section 312 (b), without taking account of their differences in terms, purposes and ordinarily applicable situations; and, finally, so construed, there would be serious question concerning the Section's validity.

That construction would create the incongruous situation that an applicant for a license and a licensee facing literal "modification" would be entitled by the terms of the Act to hearing before adverse action, but a licensee equally or more seriously "affected" by the granting of another's application or changing another's license favorably would have no right to be heard except in the Commission's discretion.

Logically this would be true, notwithstanding the interference thus created might blot out the "affected" station's operations. In this view a commercial station could wipe out a nonprofit one completely by licensed interference and, under the Commission's argument that financial injury is the only basis for appeal, the latter would have no right to be heard before either the Commission or the courts. If the injured station were also a commercial one and could show financial injury, it could appeal, but would have no right to be heard before the Commission. If it could not show financial injury, it would be in the same boat with the nonprofit station.

Such a construction would run contrary to the policy of every other provision for hearing in the Act. Not only in Section 303 (f) itself, but in Sections 309 (a) and 312 (a), (b), the statute dispenses with hearing when the action to be taken is *favorable* to the person, whether applicant or licensee, whose interests are directly and immediately involved.

It is zealous to provide for hearing when the decision is or may be adverse to him. Yet, in this situation, KOA is the only station adversely affected. The action is favorable to WHDH. It was merely an applicant. KOA was an existing station. As between the two, if either was entitled to the greater protection, it would seem to be KOA. If the action taken or proposed had been adverse to WHDH, it had a statutory right to hearing, and in fact the Commission respected it.

Realities of Case Said To Be Ignored by FCC

Yet when it reached the point of proposed decision in WHDH's favor and adverse to KOA, it denied that the latter had any right to hearing, whether statutory or constitutional. This perverts the hearing policy of the Act. That is to dispense with hearing when decision is favorable to the one affected, to require it when it is adverse. Section 303 (f) is no exception. It does not specify in terms who shall be heard or have notice. But it provides for public hearing when the "station licensee" does not consent to the proposed change in frequency, power or time. It does not say "the licensee whose license is modified in terms." Unquestionably it includes him. But he is amply protected by Section 312 (b).

Whether he or the other station or stations affected will be injured depends, not on the mere fact his license is altered, but on *how* it is changed, whether favorably to him or to the others. The Commission's view posits the right to hearing, not upon the question who is hurt or likely to be hurt, as do the other sections, but upon whose letter of license is altered or likely to be changed. It ignores realities, effects and consequences in favor of the formal and literal nature of the change "The letter killeth; the spirit keepeth alive." Section 303 (f) does not in terms exclude the station licensee who is injured by changes favorable to other licensees or applicants. Such licensees may be the only persons injured or adversely affected by the action. In such a case (and this is one), to posit hearing upon the want of consent of the licensee in whose favor the decision is made would be to deprive the only person injured or capable of being injured, and through him the public he serves, of the right to be heard.

Such a view would pervert the section into an instrument for suppressing all protest by the only person hurt or likely to be hurt, except possibly as he might raise his voice on appeal, and then only, in the Commission's view, to be met with the answer that he has no right to be heard before it. It would suppress also representation of the public interest which it is the primary purpose of the statute to protect and secure.

In my judgment therefore Section 303 (f) cannot be given the narrow construction, merely duplicating the function and purpose of Section 312 (b), for which the Commission and WHDH contend. In addition to its obvious injustice, contradiction of the statute's general hearing policy, failure to take account of the differences of the two sections in language, subject matter and character of the controversies dealt with, the Commission's view refuses to recognize that the fact of interference rather than mere literal change in the terms of a license is what causes harm and chaos to stations affected, to the industry, and to the public.

If accepted, it would also raise serious question concerning the section's validity, both for want of essential minima of procedural due process in some opportunity to be heard as of right and for want of essential fair play in favoring one interested party unduly as against another. Neither preservation of the public interest nor of the Commission's broad power and discretion to conduct its functions in disposing of the public's business requires acceptance of an interpretation so doubtful and unfair.

Destruction or Impairment Of Rights Involved

The foregoing views necessarily contemplate that the hearing provided by Section 303 (f), under the proviso, has in such an application as this "quasi-judicial" rather than merely "legislative" effect. That is true, in my opinion, notwithstanding the section's principal grant of power is to make rules. In such an application as this, the making of rules relating to the defined changes necessarily affects existing rights by changing them, and that is as true as if the change were made by order rather than by rule.

When such an effect is achieved, whether by the one form of action or the other, the ordinary distinction between "quasi-legislative" and "quasi-judicial" action gives way before the elementary requirement that rights be not destroyed or impaired without hearing. The proviso requires hearing whether the change is in form "legislative" or "judicial."

B. The Regulations and Their Application

It remains to consider whether the regulations, as they have been applied, have violated appellant's right to a hearing. The construction given above to Section 303 (f) does not mean that every licensee who may be in some way, however minutely or remotely, affected by the change or who may consider or surmise that he will be affected, is entitled to a hearing or that the hearing must be a full-panoplied judicial proceeding. Further questions therefore are: (1) What interest or injury must an affected licensee have, and how must this be disclosed, in order for him to assert the right to hearing; (2) what is meant by hearing; (3) when does the right arise and when may it properly be asserted?

Interference may affect only a few stations or many. With frequencies crowded as they are, a change in the frequency, power or time of one station may affect dozens, possibly hundreds of others, some seriously, some

62D ON HONOR ROLL of KNX Hollywood, is Bob Lanning, of that station's publicity department, who recently joined the Navy. Well-wishers are George L. Moskovics, West Coast sales promotion director of CBS and Mary Ann Gideon, station secretary.

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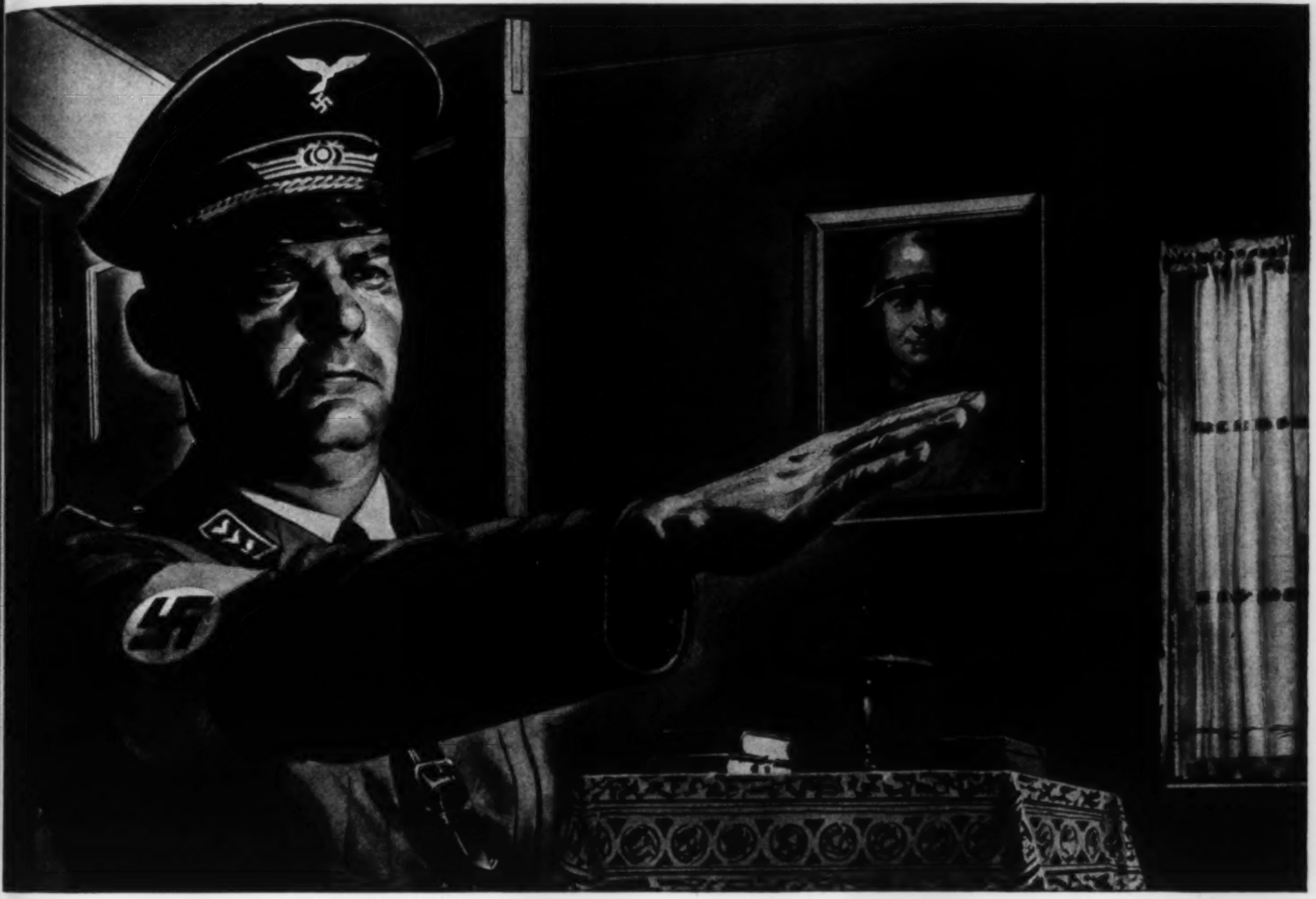
[14] This view derives some support also from the provisions of Section 409(a), note 11 *supra*, that "In all cases heard by an examiner, the Commission *shall* hear oral arguments on request *of either party*," explicitly recognizing the right of more than one person to be a party. (Italics supplied)



"HEIL HITLER! YOUR SON IS DEAD..."

▶Winter comes early on the northern Russian front. Last night, when Heinrich Mueller of Munich fell, there was snow enough to soak up his bright blood in the moonlight...snow enough to bury his young body until the spring rains come again.

▶But someone saw Heinrich go down. Tomorrow a storm-trooper will visit his mother.

▶"Your son is dead," he will say. "For the Fuehrer. Heil Hitler!"

▶Perhaps Frau Mueller will curse the Russians through her tears...curse the British...the Americans. Perhaps, with greater bitterness, she will realize that the real murderers of her son are not abroad but at home: the men who fired the *Reichstag* as an excuse to grasp tyrannical powers they were never to relinquish...who waded through lies and blood to Prague and Warsaw and Paris.

▶Can there be any doubt of what we are fighting *against*...of what we are fighting for? Never in history has so much good, and so much evil, hung trembling in the balance of a gigantic conflict.

▶We of RCA Victor believe that all our American destiny, for 150 years, has pointed unmistakably to the moment we are living *now*. It is within our power to give peace and justice and freedom to the world forever...or to go down into endless slavery.

▶As early as September, 1939, we sensed our part in that struggle. We began then to plan the production of enormous quantities of vital military radio equipment. By September, 1941—three months before Pearl Harbor—such equipment was streaming from our production lines. We said then in a published statement:

"With RCA Victor, national defense comes first. By comparison, we hold nothing else important."

▶Nothing else *is* important. If we lose, we shall lose more than our American standards of living—more than all the things that make life in America *worth* living. We, too, shall become slaves of that regime of vultures who feed and fatten on death.

BUY WAR BONDS
EVERY PAYDAY

BROADCAST EQUIPMENT

RCA Manufacturing Company, Inc., Camden, N. J.

only slightly. Expedition of the Commission's functions requires that hearings not become radio conventions or interminable trials like some receivership proceedings. There must therefore be some limit to the number of persons entitled to participate as parties and to the extent to which those so entitled may take part.

Apart from applicants and licensees faced with modification or revocation of license, the statute makes no express provision for determining who may be necessary parties, whether by right of intervention or as persons entitled to notice and party status from the inception of the hearing. With the two stated exceptions, the Commission has treated the matter as one of intervention under rules prescribing the basis upon which "affected" stations and others may come in.

Under its former regulation, Rule 105.19, Rules and Regulations (1935), disclosure of "a substantial interest in the subject matter" was sufficient. This proved unsatisfactory [15] and has been revised to add the requirement that the petition also show "the facts on which the petitioner bases his claim that his intervention will be in the public interest." Rules and Regulations (1939), Section 1.102.

Two Rules Found to Operate Differently

The two regulations are alike in excluding persons who cannot show substantial interest. There would seem to be no valid objection to this. Participation as parties of persons only insubstantially or remotely interested or affected is not necessary for protection of either private right or public interest. Exclusion of such persons from participation as of right is necessary for efficient conduct of the Commission's functions and to keep the hearings within manageable bounds.

Affirmatively, however, the two rules operate differently. The practical effect of the old one (Rule 105.19) was that affected licensees became parties upon disclosing in the petition "substantial interest in the subject matter." Upon this showing, intervention became a matter of right. So effective, the rule may be taken as having complied with the implicit requirements of Section 303 (f). *Red River Broadcasting Co.* v. *F. C. C.*, 69 App. D. C. 1, 98 F. (2d) 262 (1938). Persons substantially affected by action proposed under that section had the right to come in.

That it was exercised nominally as a process of intervention, by filing a petition showing the nature of their interest, rather than by receiving notice and being regarded as parties from the outset, was no more than a reasonable concession to the Commission's difficulty of ascertaining in advance who might be sufficiently interested and of confining the hearing within reasonable bounds. *Red River Broadcasting Co.* v. *F. C. C., supra.*

The new rule (Section 1.102), however, excludes persons substantially interested, including existing licensees "affected," unless the petition states facts to show their "intervention will be in the public interest." The intended purpose was to cut down the number participating under the old rule.[16] The language of the new requirement is ambiguous. If by it were meant that the intervenor must show that the public interest is tied up substantially with his private one, so that in the hearing he would be champion for both, perhaps the analogy to the conditions necessary for appeal, as stated in the *Sanders* case, would sustain the further limitation.

HISSING INTERVIEW over WSPD, Toledo, recently when Bob Evans, special events man had a reptile and his trainer from a visiting circus as guests on the 16-year old feature *Kiddie Karnival*. The 26-foot python was exhibited before the kiddie audience, and his keeper interviewed at the mike.

The rule, however, has not been so applied. The Commission has not interpreted it as calling merely for a statement of specific facts to show that the public interest is involved in the petitioner's operations, will be affected substantially and adversely by the change proposed, and consequently that the petitioner's participation will be in championship of both its own and the public interest. Rather, as counsel have stated the matter in the brief, the decisions denying appellant's right to intervene were "not based on appellant's lack of interest.

The Commission held that whether or not appellant had a sufficient interest, it should not be permitted to intervene because it failed to show *how its participation in the hearing* would be of *any assistance in the determination of the issues involved.*" Referring to the practice under the former rule (Rule 105.19), it is also said that procedure "was abolished because it made impossible an efficient administration of the Act."

Rule as Applied Becomes One of Efficiency

And again, "It thus became apparent that interest alone was an insufficient test for intervention . . . Virtually every application involves many persons who claim to be interested . . . Most such applications are for facilities in a community which already has one or more stations which may be fearful of the petition . . . or are for facilities which cause electrical interference to existing stations. In many situations both factors combine to increase the number of potentially interested persons . . . In practically every instance the persons who claim interest in the proceedings are existing licensees whose private interests are promoted by protracted proceedings which delay as long as possible the establishment of competing facilities. In view of these facts there is no wonder that the old intervention rule did not conduce 'to the proper dispatch of business and to the ends of justice.' "

So applied, the rule comes down at best to one of efficiency, without controlling regard to interest, public or private, or how far it may be affected; at worst to one of mere convenience to the Commission in performing its functions. That this is the meaning and effect of the rule, as it has been applied, appears not only from the argument and the briefs, but also from the Commission's key decision in support of this policy, *In re Application of Hazelwood, Inc.* (Docket 5698), from the undue reliance placed in argument upon the breadth of the Commission's discretion and rule-making power, and from the action taken in this case.

A rule which posits the basic right of hearing exclusively upon mere convenience to the Commission or whether the petitioner's participation "will be of assistance to it in determining the issues," leaving this to be determined solely in its discretion, is not reasonable. It is a denial of any right to hearing. That it may be inconvenient or time-consuming for such a body to hear persons substantially interested and affected, or that, in the Commission's exclusive discretion, they may not be able to aid it, furnishes no basis for refusal to hear their side of the case, whether on the facts or the law. Efficiency is not to be bought at such a price to essential fairness. *Cf.* Brandeis, J., dissenting in *Myers* v. *United States*, 272 U. S. 52, 240 (1926). If therefore the rule has been applied to appellant in this manner and with this effect, it has cause for complaint. Whether it has been so applied and with such consequence is the remaining question.

Upon that, the facts are important, as are also the questions whether appellant disclosed its own and the public interest and the affectation of both sufficiently. Involved also is the question of what kind of hearing appellant was entitled to have.

A One-Way Matter In the Early Stages

In my opinion there was no improper denial of hearing prior to the denial of the second petition for intervention filed Dec. 16, 1940, when the Commission gave notice to KOA and others of its *proposed* findings and conclusions favorable to granting WHDH's application. Until then it was wholly possible the application, filed under Section 309 (a), would be denied.

Until that time the proceeding was, as has been pointed out, essentially a one-way matter, involving questions primarily and initially between the applicant and the Commission. It had been unable to decide from the application in favor of the applicant. Accordingly, as the section required, it put the matter down for hearing and notified WHDH. It also gave notice to others who might be affected, including KOA, though the section did not in terms require this. Appellant then petitioned for intervention and the petition was denied, as were a petition to review this action and a motion by appellant to dismiss the application on the ground it did not conform to the rules.

In none of this was there abuse of the Commission's powers or discretion or violation of appellant's statutory or constitutional rights. In this initial stage the burden was upon the applicant to convince the Commission *prima facie* that granting its application would be in the public interest. The very fact the matter was set for hearing was a tentative indication the decision would be adverse to the applicant.[17] WHDH had therefore the laboring oar. Unless and until it convinced the Commission there was apparently valid ground, at least a *prima facie* case, for granting the application, no harm was done or could be done to other stations.

Hence, until it appeared from this initial stage of the total administrative process that some harm to KOA and others similarly situated possibly or probably would result, there was no essential reason either in due process or in the provisions of Sections 309 (a) and 303 (f) for bringing them in. Until then the Commission was entitled in its discretion, as Section 309 (a) contemplated, to treat the matter as one exclusively beween itself and the applicant. So much by way of concession, not only to the terms and the general scheme of the statute, but also to efficiency in performing the Commission's functions, is reasonable.

Concomitant with this view of the statute, however, is the requirement that the conclusions of law and fact reached by the Commission in the initial stage, concerning issues which might affect other parties substantially, should be tentative, not final and conclusive, if they were favorable to the applicant. This, in fact, appears to have been observed, since the findings and conclusions were issued as "proposed," not as final and decisive, and notice concerning the proposed action was given to affected persons.

At this point, however, the clash between the interests of KOA and WHDH, and their respective public constituencies, became apparent, with the possibility of the latter's success. WHDH had succeeded in discharging its initial burden. The necessary effect of action in its favor would be to create electrical interference with KOA and also to require its reclassification under the Commission's rules. At this stage, then, the matter had become one no longer primarily between WHDH and the Commission, but one primarily between them, on the one hand, and KOA and other stations adversely affected, on the other.

Though the process initiated under Section 309 (a) would not become final and complete until conclusive decision had been made, the provisions of Section 303 (f) then first came compellingly into play, overlapping the final phase of the proceedings under Section 309 (a), and required that persons substantially and adversely affected by the proposed decision be given opportunity to present their side of the case.

Second Petition for Intervention Filed

At this point appellant filed its second petition for intervention, which was denied Jan. 7, 1941. However, the order permitted it to file a brief *amicus curiae*. It did so and participated in the character in the oral argument upon the question of adopting the proposed findings. On March 27, 1941, the proposed findings and conclusions were adopted by a vote of 3 to 2, with two Commissioners not participating. The members voting in the negative filed a vigorous dissenting opinion. 8 F. C. C. Rep. — (1941). The decision became effective by formal order April 7, 1941. Appellant's petition for rehearing was then denied and this appeal followed.

In the final and decisive stage of the Commission's action, therefore, appellant was excluded as a party, notwithstanding it was permitted to file a brief and appear in oral argument as *amicus curiae*. Unless these concessions gave it all to which it was entitled by way of hearing, the exclusion cannot stand as justified. This is because the basis on which it was made was not valid. It is not necessary to regard Section 1.102 as invalid, since it may be possible to apply it with valid effect. However, the manner in which it has been applied generally and in this case is invalid, as being contrary both to Section 303 (f) of the Act and possibly also to elementary fair play required by due process.

Conceding appellant's interest, its substantial character, not denying its substantial relation to the public interest or that this as well as appellant's private interest might be adversely affected by the order, the Commission refused to recognize appellant as a party on the ground its petition did not disclose facts to show how its participation in the proceedings would be helpful to or would assist the Commission in deciding the issues. It then belied this action by announcing in the order of denial that appellant might file a brief as *amicus curiae*.

In view of the basis for the Com-

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[15] See Monograph of the Attorney General's Committee on Administrative Procedure, Part 3, Federal Communications Commission (1940) 16 ff., Gellhorn, Administrative Law—Cases and Comments (1940) 511.

[16] *Ibid.*

[17] Monograph of the Attorney General's Committee on Administrative Procedure, Part 3, Federal Communications Commission (1940) 13.

FASTER . . . FASTER . . . FASTER

Hundreds of saw mills in the lumber-rich area of East Texas, North Louisiana and South Arkansas have speeded up production to meet rapidly growing wartime demands for wood products. Lumber shipments from this area are 9 per cent above a year ago. This means larger payrolls and additional spendable wealth . . . money that circulates and buys the products you have to sell. Buy KWKH for dominant coverage of this lumber-rich market . . . a market selected for more than 300 million dollars of war construction . . . a market that is bringing new wealth for scores of KWKH advertisers.

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TEXAS
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CBS sets net daytime circulation at 313,000 radio homes; net nighttime at 425,000. Member South Central Quality network. Ask Branham Company for details.

CBS 50,000 WATTS

KWKH

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SHREVEPORT, LOUISIANA

THE SELLING POWER IN THE BUYING MARKET

mission's action, it is perhaps not necessary to inquire whether the petition, under some other rule or some other interpretation of the present one, would be sufficient. It was denied for an invalid reason, and that in itself is error sufficient to require reversal, unless its effects were cured by allowing appellant to appear as *amicus curiae.*

The petition, however, more than complied with the rule, apart from the invalid interpretation. It set forth petitioner's interest as a dominant clear channel station on the frequency 830 kc, with freedom from interference at night; that granting WHDH's application would cause electrical interference; require change in classification of KOA's frequency under the Commission's rules; result in degradation of service on frequency 830 kc prejudicial to the priority rights of the United States under the North American Regional Broadcast Agreement; discriminate against service to rural listeners and in favor of urban ones already well served; and stated other reasons not necessary to repeat.

Holds Petition Should Have Been Granted

This admittedly was sufficient to show the substantial character of petitioner's interest, and in addition its substantial relation to the public interest, including service to rural areas, possible discrimination against them in favor of urban regions, and possible injury to the nation's priority rights under the international treaty, together with possible or probable substantial injury both to appellant privately and to the public interest. So much appearing, the petition complied in every respect with Section 1.102, except the construction that "intervention will be of assistance to the Commission in its own judgment" or "will be convenient for the Commission." The petition therefore complied with the rule in all its valid aspects, and should have been granted.

The Commission argues, however, that appellant was accorded in substance its full right to hearing, notwithstanding it was excluded as a party, because first, it was allowed to file a brief and to appear in oral argument as *amicus curiae;* and second, under Rule 1.195 appellant had, but failed to exercise, the right to present such evidence as it might choose to submit. Rule 1.195 provides for maintaining in the office of the secretary a record of all communications received relating to the merits of any applicacation, together with the names and addresses of the senders. When the date for hearing is set, the secretary is required to notify these persons that they will have opportunity to appear and give evidence.

Under the rule they are not precluded "from giving any relevant and competent testimony" because they lack "a sufficient interest to justify . . . intervention as a party . . ." In view of these things the Commission says appellant had, but waived, full opportunity to present evidence, and had also full opportunity for argument, oral and written, upon the legal issues—thus, in effect, to appear upon both the facts and the law. It asserts therefore that appellant actually was deprived of no substantial right. This presents the final refinement of the issue.

Appellant claims too much. The petition, among other things, sought to "reopen the proceeding in order to afford petitioner an opportunity to introduce evidence, to cross-examine all witnesses, and otherwise participate fully in the proceedings; upon such record file proposed findings of fact and conclusions of law; have the right to file exceptions to any proposed Commission decision thereafter issued; request oral argument upon such proposed decisions and upon its exceptions thereto; in all respects participate fully in the important issues involved in the application" of WHDH.

In short, appellant sought not only to participate as a party in the final and crucial stage of the process under Section 303 (f), but also to reopen, repeat and participate in the initial stage under Section 309 (a) as fully as would a party in judicial proceedings in equity with the rights to present evidence, cross-examine witnesses, including all who had been heard previously, take exceptions, submit findings, take part in argument, etc. Such a view of the proceedings would convert them essentially into a judicial trial in the final stage for reexamination *de novo,* so far as appellant might demand, of issues and matters presented in the initial one.

Middle Ground Must Be Marked

In my judgment no such extensive right of participation is contemplated by Section 303 (f) or any other section, or is required by due process, and to enforce it would prevert the statutory scheme, convert the requirement of fair administrative hearing into one for a judicial procedure, and bring about a clogging of the Commission's work and functions inconsistent with their nature, complexity and due performance.

Both the Commission and appellant therefore have gone too far in their positions. On the one hand, appellant's right to hearing is not conditioned absolutely in the Commission's discretion, as it would be if limited to participation in argument as *amicus curiae* and in presenting facts under the provisions of Rule 1.195, applicable to all members of the public.

Its right to participate is to do so as a matter of right, not of grace, and as a party. That is true, notwithstanding the extent of participation allowed as a matter of grace or discretion may be substantially or nearly identical with what the party is entitled to have as a matter of right. On the other hand, appellant is not entitled to a full-dress judicial proceeding or to dictate the extent of its participation, without regard to reasonable limitations which may be imposed by the Commission to achieve orderly and not unduly extended hearings. Some middle ground therefore must mark out the boundary between appellant's right and the Commission's power.

It would be enough to dispose of the appeal that appellant was excluded from appearing as a matter of right and allowed limited participation as a matter of grace. But to do this, without more, would leave the further proceedings in doubt. Two problems must be distinguished, one the determination of appellant's right to participate, the other the extent of that right. The former is not a matter of discretion with the Commission. One in appellant's position must be heard upon issues such as this proceeding involved in the final stage, under Section 303 (f).

But that right is not inconsistent with the Commission's requiring its existence to be shown by something more than mere general allegations that the holder is substantially interested, will be substantially affected, and that the public interest is involved and will be likewise affected. If this were all that could be required, practically everyone affected in any way, immediately or remotely, substantially or slightly, could come in at his option by alleging these generalities. On the other hand, it is not necessary to set forth the evidence which would be presented on the merits, nor would requiring this be reasonable.

Between these two extremes a middle ground may be found to enable the Commission to determine that the interest and the injury, public and private, are substantial and real rather than insubstantial or visionary, and are substantially related. Perhaps an analogy can be taken from judicial proceedings in which findings of fact are required, in the distinctions which involve evidentiary facts, basic facts and ultimate facts.[18] There could be no undue limitation of the right to appear in requiring existence of the ultimate facts on which it is posited to be shown by statement of such basic facts, so that the Commission might be guided by something more than the vacuistic formulae of "substantial interest," "adversely affected," etc.

KEY MBS EXECUTIVES in a candid shot at the Mutual Net Program Directors' Meeting [BROADCASTING, Sept. 14] in Cleveland recently (l to r) Ted Campeau, manager CKLW, Windsor, Ont.; Frank Schreiber, manager, WGN, Chicago; H. K. Carpenter, manager, WHK-WCLE, Cleveland and host to the group; Dolph Opfinger, program director of MBS; and Fred Weber general manager of MBS.

So much at least would seem to be properly conceded, not to the Commission's discretion, but to the necessity that it be enabled to distinguish with reasonable certainty between persons entitled to come in as of right and others not so entitled but claiming this status on grounds insufficient once the actual facts of their situation become apparent. If at times there may be difficulty, as there is in judicial proceedings, in determining what are basic as distinguished from merely evidentiary facts, reasonable latitude toward including some of the more important of the latter will resolve it. The error if any should be made upon the side of stating more rather than less than may be actually necessary.

Regulatory, Quasi-Judicial Functions Involved

The other problem, involving the extent of the right to participate, is properly within the Commission's discretion under its broad rule-making power, reasonably exercised, beyond a few essential minima required by elementary notions of fair play. Neither the statute nor the Fifth Amendment prescribes specially what these minima are. Nor has it been made clear by judicial decision what constitutes a minimum compliance with due process in the way of administrative hearing.

Presumably this will vary to a considerable extent with the nature of the substantive right, the character and complexity of the issues, the kinds of evidence and factual material,[19] the particular body or official, and the administrative functions involved in the hearing. In other words, essential fairness of hearing bears some relation to these factors, but beyond certain, though very few, basic requirements which may be common to all fair hearings, the extent of participation by parties and others is a matter for regulation by statute or properly conferred rule-making authority.

The Communications Commission deals with highly technical and complex engineering and economic functions and relations, a highly organized and crowded industry serving primarily a public interest, but strongly affected with private incentive. Its functions are both regulatory and quasi-judicial. Its action in a single case often affects many persons, station licensees and others. Its hearings therefore tend to be many-party ones, in which each one appearing seeks as large a participation as possible.

Often certain issues affect some, but not other parties. Yet once a party has come in, his tendency is to have a hand in all that goes on. Cross-examination especially lends itself to abuse in such a situation.[20] So does the opportunity to present expert testimony.[21] Consequently, in contrast with the fundamental right to come in, to be present as a party and be heard, much in the way of discretion must be conceded to the Commission in controlling the extent to which parties may be allowed to participate.

The Commission's objective of keeping the hearings within manageable bounds is to be achieved, therefore, not as has been attempted by excluding persons who rightfully should come in, but by controlling through reasonable regulation the extent to which they may take part. As to this the Commission has and rightfully may exercise much authority in various specific ways.

Reasonable Opportunity To Present Evidence

The essential minima for fair hearing would seem to include a reasonable opportunity to present evidence concerning disputed issues of fact and argument upon issues of law affecting the party tendering them, and to do both as a party to the proceeding, not merely in the character of one present on sufferance or favor. In neither respect however does this mean, as appellant seems to think, that a party may require retracing all steps taken before the stage at which his right to come in arises or that he may wander throughout the record upon issues affecting other parties, but not himself substantially.[22]

In this case, therefore, it does not mean, as appellant assumed, that it could require the entire proceedings prior to the time of its proper intervention to be reopened with right on its part to cross-examine all witnesses heard in the preliminary stage under

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[18] Saginaw Broadcasting Co. v. F. C. C., 68 App. D. C. 282, 96 F. (2d) 554 (1938).

[19] See Davis, *The Requirement of Opportunity to be Heard in the Administrative Process* (1942) 51 YALE L. J. 1093, 1106, 1117.

[20] *Id,* at 1103. MONOGRAPH, *op. cit. supra* note 17, at 16, 17.

[21] Particularly when the agency has a body of technical experts, such as the Commission's engineering staff, competent to give disinterested expert opinion upon the technical issues or questions. See MONOGRAPH, *op. cit. supra* note 17, at 18.

WE ASKED 75 CHARLESTON, W. VA. GROCERS THESE TWO QUESTIONS AND HERE ARE THEIR ANSWERS...

1

What radio station do you listen to when you're home at night?

55 said WCHS

19 said Station "A"	1 said Station "B"

2

What radio station do you consider most influential in moving your merchandise?

59 said WCHS

15 said Station "A"	1 said Station "B"

NAMES and ADDRESSES ON REQUEST

5000 on 580

represented by THE BRANHAM COMPANY

WCHS

Charleston, West Virginia

CBS Affiliate

John A. Kennedy, President

Howard L. Chernoff, Managing Director

Section 309 (a) and, apparently, in its discretion to compel reproduction of all testimony then produced.

Such a view would force the Commission to incur the waste of holding the preliminary hearing upon the application under Section 309 (a) and then repeating all that had been done in it when it becomes apparent, from the proposed determination favorable to the applicant, that the final stage of hearing under Section 303 (f) must be gone through with in order to afford one in appellant's position his opportunity to be heard.

The statute contemplates no such wasteful process, and in my opinion due process does not require it. Adequate protection for appellant's rights can be secured without this, and in full consonance with the statutory scheme. It contemplates, as has been said, a preliminary hearing in which only the applicant is required to be present as a private party. It may become final, if the decision is adverse to him. If so, others affected will not be harmed, and their presence in this stage would only clutter the proceedings and the record. If not, then appellant's right to hearing arises under Section 303 (f).

But nothing in the act or in the Constitution requires this to be entirely *de novo*. It is enough that it be adequate.[22] At the proper stage of intervention, the record in the preliminary hearing has been made. It may be made available to the intervenor. From the multiplicity of evidence and of issues it is not unfair to require him to specify, at least in a general way, the issues he proposes to meet, the evidence he wishes to contradict, and the other matters concerning which he wishes to raise objection. This should be done with particularity, not merely by broadside charge against the entire previous proceedings.

Restricting Parties To Issues Involved

With the issues so self-limited, it will then be for the Commission to determine whether, in the exercise of its quasi-judicial discretion, the intervenor's participation should be further limited, in relation to the production of evidence, cross-examination, argument or other normal incidents of hearing. In this manner each party may be restricted fairly to the issues and participation pertinent to his case, rather than allowed to roam through the entire proceedings upon matters relevant to others, but not to himself or matters concerning which he has no objection.

Perhaps a considerable part of such confinement may be accomplished by the issuance of appropriate general regulations. But whether by that method or by action in the particular case, the result may be achieved of affording the intervenor fair and adequate hearing, without at the same time permitting him to run away with the hearing, nullify all that has gone before the intervention, or unduly extend the hearing beyond what fair protection of his rights and the public interest may require.

It is not necessary to extend the discussion further. Appellant has shown sufficiently its right to come in. It should have been allowed to do so, as a party to the proceeding, not merely as a friend of the Commission or a member of the public. That is true, notwithstanding the extent of participation actually allowed may have been substantially all that a party was entitled to have, though by this statement it is not intimated that this was true. This question need not be determined. It is one thing to be present as a party, and as a matter of right. It is another to appear upon favor or by sufferance. It is still another to be heard in a particular fashion or at a particular time or stage.

Appellant's right arose, not when the preliminary proceedings upon the application were begun nor when the matter was set for hearing, nor thereafter prior to issuance of the "Proposed Findings of Fact and Conclusions"; but when these were issued. At that time, upon the showing made in appellant's petition, it should have been recognized as a party and allowed to participate thereafter on that basis.[24]

The extent of its right to participate, however, was largely within the discretion of the Commission, having due regard to the principles above stated. Appellant was not entitled as a matter of right to all of the relief demanded in its second petition to intervene or in the petition for rehearing, and upon another hearing may be required in the Commission's reasonably exercised discretion, to confine itself as has been indicated, and to point out with reasonable particularity the portions and features of the previous proceedings it wishes to challenge.

This does not amount, in substance or effect, to acceptance of the Commission's view that appellant can be excluded for failure to set forth facts to show that its intervention will be of assistance to the Commission in deciding the issues. That factor is pertinent to the question how far appellant may participate, though perhaps not conclusive of it. It is not the criterion of the right to be heard. It may, in fact, have exactly the opposite effect, that is, intervention may present facts or legal argument, contrary to those tentatively accepted by the Commission, which will make its decision more difficult.

Decision Reversed And Remanded

That is one purpose of hearing. Nor does this view posit the right to be present and to take part upon an exercise of the Commission's discretion or favor. With that right established, every other has protection, and if there is violation by some attempted exercise of discretion in any other respect it may be corrected, first by argument before the Commission itself, or if it is not corrected there, then by appeal.

Without attempting therefore to blueprint the procedure to be followed with respect to the extent of appellant's participation in another hearing, we may leave such matters to the Commission's judgment, where they properly belong, subject only to compliance with the basic requirements of fair play and adequate opportunity to be heard.

For the error in excluding appellant from participation as a party in the final and controversial stage of the proceeding, contrary to the requirement of Section 303 (f) of the Act, the order must be reversed, with directions to afford appellant opportunity for hearing in accordance with the provisions of that section.

Reversed and remanded.

ELMER'S GOAT, "Beauty" at the Kansas Free Fair Grounds, Topeka, won for Elmer Curtis, announcer of WIBW, Topeka, honorary membership in the Goat Roper's Club, an organization of lariat-swinging cowboys originating in Texas. Elmer went into a one-two, one-two for the photographer to prove he can get one gallon of milk a day from his Taganburg goat. Elmer says all spots have disappeared before his eyes now that he gulps goat's milk every day.

Groner and Vinson Concur In Ruling

GRONER, C. J., and VINSON, J.: Judges Groner and Vinson concur in the conclusion of Judge Rutledge that appellant has not only a right to appeal to this court under Section 402 (b) (2) of the Act, but also the right to intervene in the proceeding before the Commission. We are, therefore, in agreement with Judge Rutledge that the case should be reversed and remanded for further hearing.

In view of the importance of the principles involved, we consider it desirable, however, to set out in a word our separate views as to the meaning and effect of those Sections of the Act upon which we all agree the decision must turn.

We are in agreement with Judge Rutledge that under Section 303(f) the Commission should have accorded appellant the right to participate in the hearing as a party. But we are also of opinion that, since in the facts of this case it is apparent that the granting of the application of the Matheson Radio Company, Inc., operators of Station WHDH at Boston, would result in what amounts, if substance be regarded rather than form, to a modification of appellant's license, Section 312 (b) of the Act also provides a right of participation by appellant in the proceedings under that application. While the question is no longer material here—since we assume that, in the present state of the record, the Commission will reopen the proceedings and permit the intervention of appellant as a party—we express our disagreement with the view of Judge Rutledge that the Commission, in its discretion, may exclude appellant from participation until after the proposed findings of fact have been made. It is our view that participation in the hearing, under either Section 303 (f) or Section 312 (b), should have been accorded both to appellant and to Matheson Company from the outset. It is true that Section 309 (a) appears to contemplate that if upon examination of an application for a station license, or the renewal or modification thereof, the Commission shall make a determination in favor of the application, it need not accord a hearing to the applicant. But we think, whatever the effect otherwise of this section may be, it is inapplicable in the facts of this case. Here the application of Matheson Company for an extension of its facilities is in effect an application, as we have said, the granting of which will, if substance be regarded, modify the license of appellant. In the circumstances, we think Section 312 (b) is applicable and that both appellant and the Matheson Company were entitled to participate in the proceedings as parties and with the rights of parties. We think the statute contemplates that a licensee's right, although limited and defeasible, shall not be modified or destroyed without a hearing. To allow a hearing only after proposed findings of fact have been made is to deprive appellant of participation during the crucial period of the proceeding—that is, when the evidence is being taken and the record being made up. Appellant's interest existed from the beginning, and it is not enough that that interest was considered by the Commission. It is axiomatic that one whose rights will be affected, not only may himself engage in their protection, but must do so affirmatively and at every step in the proceedings—or take the consequences of his default. *Red River Broadcasting Co.* v. *Federal Communications Commission*, 69 App. D. C. 1, 98 F. 2d 282. There was no default in this case.

Stephens Concurs in Conclusions Reached

STEPHENS, *Associate Justice:* I concur in the conclusion of Judge Rutledge that the appellant has not only a right to appeal to this court under §402 (b) (2) of the Communications Act but that it had also the right to intervene in the proceeding before the Commission, and I am therefore in agreement with Judge Rutledge that the case should be reversed and remanded for futher hearing. I am also in agreement with the views and conclusions expressed by Judges Groner and Vinson in their separate opinion. I desire to add the following:

I am aware that the provisions in the Communications Act for hearings speak *in terms* of licenses and rights which are undergoing alteration, suspension or revocation through direct action of the Commission thereon, and not *in terms* of the rights of existing licensees—such as those of the appellant—which will be impaired by the direct action of the Commission in extending the facilities of another licensee.

But I think that by clear implication the safeguards of the Act operate for the benefit of such a licensee as the appellant. For it cannot be doubted that the modification—in the instant case the extension of facilities—of one license right may have the consequence of impairing, or even of destroying, the business of another licensee; this in practical effect is a modification or revocation of his license. A contrary view would regard form rather than substance. That the granting of new or additional station rights may have the consequence of impairing or destroying the business of an existing licensee is recognized in *Commission* v. *Sanders Radio Station*, 309 U. S. 470 (1940), where the Supreme Court, after stating that it is not the purpose of the Act to protect a licensee against competition but to protect the public, that Congress intended to leave competition in the business of broadcasting, stated also:

This is not to say that the question of competition between a proposed station and one operating under an existing license is to be entirely disregarded by the Commission, and, indeed, the Commission's practice shows that it does not disregard that question. It may have a vital and important bearing upon the ability of the applicant adequately to serve his public; it may indicate that both stations—the existing and the proposed—will go under, with the result that a portion of the listening public will be left without adequate service; it may indicate that, by a division of the field, both stations will be compelled to render inadequate service . . . [309 U. S. 475-6]

It is true that in the *Sanders* case the statement is made that the policy

(*Continued on Page 52*)

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[22] This seems implicit in the well-recognized rule that due process requirements are satisfied if at any time before governmental action becomes final, hearings are allowed either by administrative or judicial action, and therefore persons not directly or immediately affected in the initial stages of a hearing which involve primarily the interests of others may be excluded until a later phase when their interests become directly and immediately involved. See Davis, *op cit. supra* note 19, at 1104, 1136-40, and authorities cited; MONOGRAPH, *op. cit., supra* note 17, at 20.

[23] *Ibid.*

[24] This statement is not intended as meaning that adequate hearing might not have been afforded at a later stage, by appropriate regulation, as upon petition for rehearing. *Cf.* United States v. Illinois Central Ry., 291 U. S. 457 (1934); Comment, *Necessity for Hearing Before Enforcing Order of Interstate Commerce Commission* (1934) 43 YALE L. J. 1300; Davis, *op. cit. supra* note 19, at 1136-40.

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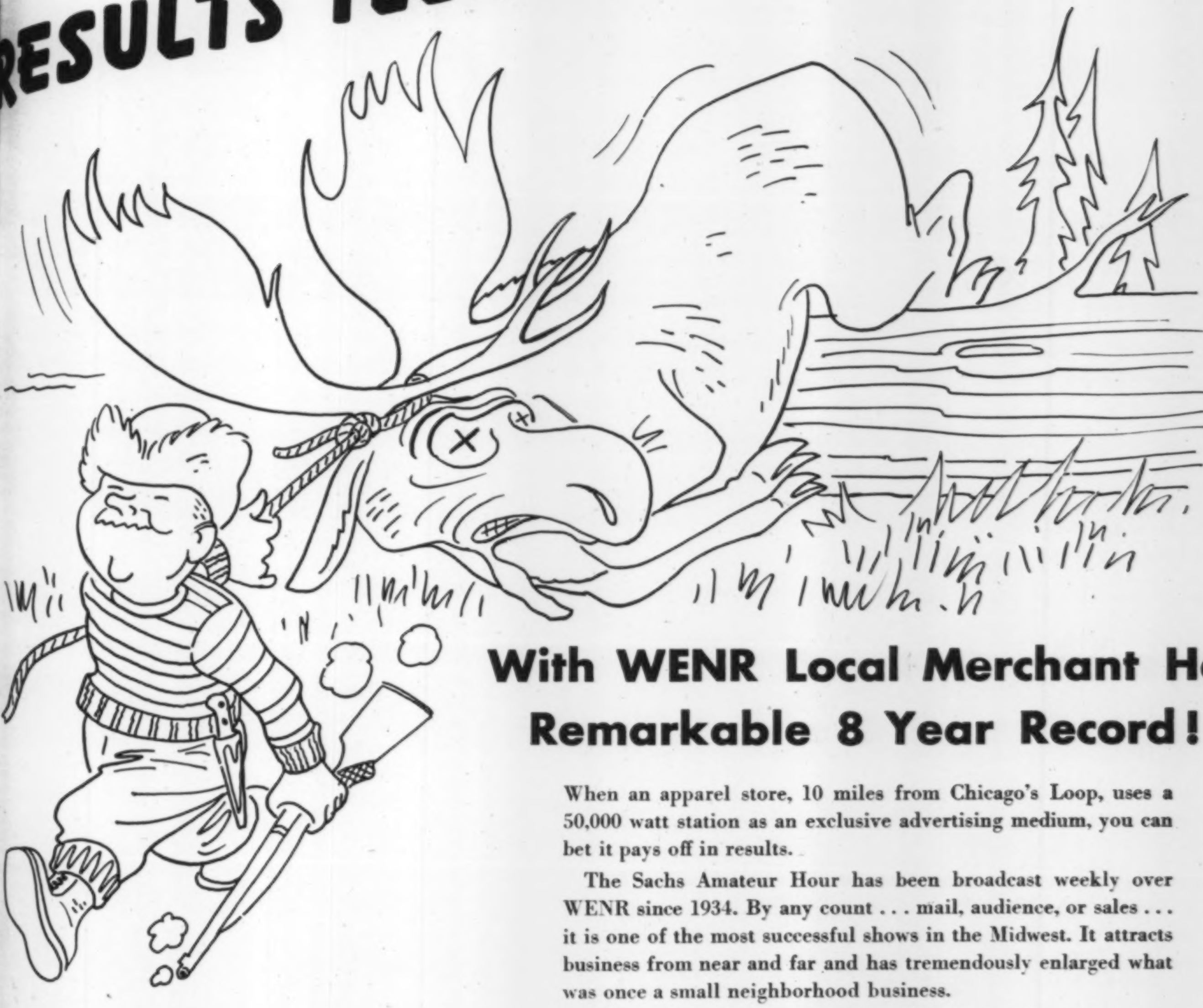

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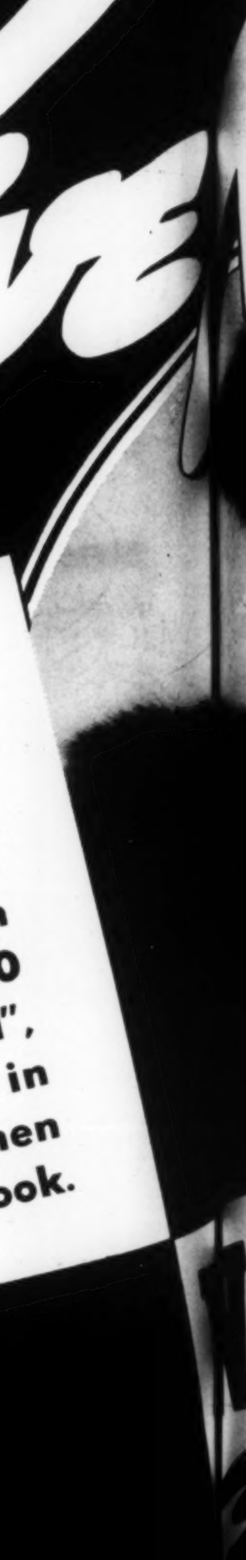

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The RADIO BOOK SHELF

A 1942 EDITION of *Books for the Advertising Man* [(Advertising Federation of America, New York. $1)] has just been released, superseding the 1935 edition and the six annual supplements issued since. Book, like its predecessor, was prepared by the AFA Bureau of Research and Education, whose director, Alfred T. Falk, describes it as "designed as a complete bibliography of books on advertising, marketing, and immediately related subjects, published during the 19-year period 1923-1941."

A PRIMER on radio has been written by Creighton Peet, journalist and author, under the title *All About Broadcasting* (Alfred A. Knopf, New York—$1.75). Written as an explanation of broadcasting for an inquiring young boy, the book should be enjoyed by laymen of all ages interested in the processes of radio from microphone to receiving set.

Sold Short

THE NATION is in dire need of scrap metals to be forged into implements of war. This isn't idle chatter. Our Army, Navy and War production chieftains say that 17,000,000 tons of scrap must be salvaged before the end of the year, to be fed to smelters now running below capacity.

A fortnight ago, WPB chief, Donald Nelson called in the nation's leading newspaper publishers. He told them of the seriousness of the situation. He goaded them into action. With praiseworthy vigor, the publishers are following through.

There was a $2,000,000 advertising campaign sponsored by the steel industry through the Advertising Council, set up to further advertising's war effort, but it met rough going. Only some 10% of that campaign—about $225,000—went to radio.

The single bright spot in the first salvage effort was Nebraska. The *Omaha World-Herald* was praised by Mr. Nelson for its job, as reported in the newspaper and general advertising trade press.

There isn't any question about the fine work done in Nebraska, and of the leadership of the *World-Herald*, itself the owner of a broadcast station—KOWH. But there is serious question about the way the job was done. Trade journals which have cited the Nebaska campaign as a demonstration of the power of the press, just haven't told the full story.

Every station in Nebraska pitched into that campaign. One of them—WOW, Omaha—was awarded a plaque by the School of Journalism of Creighton U for having performed "the most outstanding work in promoting the recently successful scrap metal drive" among stations. Awards also were made to daily and weekly newspapers.

Art Thomas, secretary of the Nebraska Broadcasters Assn., reports that other newspapers cannot duplicate the Nebraska plan "unless they have the same wholehearted support of all the stations in their states that the *World-Herald* had in Nebraska".

Thus, it is evident that the whole story was not told to the publishers in their own trade press and that Washington officialdom was not aware of the important part radio played. It is clear that campaigns in other areas must have the "power of radio" harnessed in if they are to succeed. It is there for the asking, just as it is and has been in every other Government drive for manpower, materials, bonds, salvage and all.

We are not bickering over advertising budgets or media selection. Radio stands on its record. It's one thing to sell radio short as an advertising medium in competitive solicitations, but quite another when the job is for Uncle Sam.

We are all interested in the success of this vital campaign and all others that have a bearing on successful prosecution of this war. It's high time for all media to go all out for the biggest advertising campaign in history—Democracy vs. Dictatorship.

Fair Play

IN THESE days of frozen allocations dictated by wartime shortages, broadcasters haven't thought much about licensing policies or protective litigation. That's something to be picked up after the Axis is plowed under.

But the notable victory achieved over the FCC by the industry, guaranteeing existing stations hearings as a matter of right when injury is involved, certainly warrants scrutiny. True, the victory was eked out by a 4-2 vote of the U. S. Court of Appeals of the District of Columbia. And it took five separate opinions from the six-man bench to do the job after that court for months had been in apparent deadlock.

The majority called for "fair play" by the FCC, which persistently has contended that it was the sole arbiter as to whether a station could intervene or have a hearing, even when its service area might be curtailed or its facilities degraded. That's what NBC contended when it was denied the right to intervene on behalf of its KOA, in Denver, a clear-channel station whose assignment was duplicated by the FCC with the placement of WHDH, Boston, on the same frequency fulltime.

On the fundamental point of the right to a hearing, the majority held that, irrespective of what the FCC thinks, a licensee has certain rights. It may not be a "property right" or even a "vested right" but it is a sort of license right, privilege or status that can't be destroyed or modified without a hearing.

We assume the FCC will carry the case to the Supreme Court, as it has others involving its jurisdiction. But, during the last couple of years, it has not fared so well in the highest tribunal.

Frankly, we think the FCC is going to have a little trouble trying to follow the lower court's opinion in the KOA-WHDH case, what with three separate majority opinions to reconcile. It's all the more reason, we think, for new legislation along the lines of the Sanders Bill (as it may be modified) to clearly define the Congressional intent.

The old radio-legislative battery of White and Dill looks like it will be back next session. The Maine Senator won handily in the elections in his State last week, while former Senator Dill, who retired in 1934, is the Democratic nominee from the Spokane district for the House, with election seen as virtually certain. They collaborated in writing the original Radio Act of 1927, and did it again with the Communications Act of 1934. And they can do it again!

Fireside Boom

DRASTIC curtailments in travel to football games and other sports events, ordered last week by the Office of Defense Transportation to conserve vital transportation facilities will place radio in a still stronger war position. In making this announcement, Joseph Eastman, ODT boss, said he was counting on school, college and professional football authorities to discourage out-of-town travel to games.

What Mr. Eastman did not explain was radio's ability to bring the games to these people. Since there is no limit to the listening traffic radio can bear, the industry's ability to serve the public is correspondingly strengthened. The importance of morale is not denied by Government spokesmen and radio is daily growing in its position of morale booster. Perhaps, Atlantic Refining Co., Philadelphia, had this in mind when it revised an earlier decision last week and decided to continue its sponsorship of collegiate football for the seventh successive year.

Atlantic Refining reduced its operations this year but its war service purpose is heartening. Through radio, millions unable to travel, can see the nation's football game in their minds' eyes aided by colorful, play-by-play description of many games aired by the nation's stations.

We Pay Our Respects To —

HAROLD VERNE HOUGH

MASTER of the ready quip, known for a salty humor, indigenous to his native Southwest, Harold Verne Hough, though only 55, is known in the broadcasting industry as one of its Grand Old Men.

A real pioneer of the microphone, Harold Hough was one of that coterie of nationally known announcers of radio's catwhisker days who achieved distinction for distinctive "radio personality". He was known to listeners everywhere as "The Hired Hand" and as such he was actually billed on vaudeville tour with such other oldtimers of the game, later to take commanding positions on the executive and program side of broadcasting, as Leo Fitzpatrick, general manager of WJR, Detroit; George Hay, still known as "The Solemn Ole Judge" of WSM, Nashville; Lambdin Kay, retired former general manager of WSB, Atlanta.

Today "The Colonel" still runs the *Star Telegram's* circulation department besides other executive duties. He also doubles in brass as its radio head, directing the 50,000-watt WBAP, which shares a clear channel with WFAA, the *Dallas News* station, as well as the regional KGKO, Fort Worth-Dallas, owned jointly by the two papers.

More than 20 years ago when WBAP, Fort Worth, was just getting under way Harold Hough, then, as now, circulation manager of the *Fort Worth Star-Telegram* whose publisher Amon Carter started and still owns the station, by a fortuitous circumstance became its manager, program director and chief and only announcer. He took over the announcing job when a cub reporter assigned to the task failed to show up for a Sunday night stint.

"You didn't have to have lace tonsils to be an announcer in those days," he says, "and so I was as good as anybody." But he must have had something, for he kept at it for eight years.

Announcers in those days only used their initials in signing off. When he signed off the first night as H.H., letters poured in seeking a more complete identity. The next week he explained that he was the "Hired Hand, up from the boiler room."

As the "Hired Hand" he announced baseball, football, rodeo, and sessions of the Negro Holy Rollers. Election nights he always kept listeners entertained with his drawling ad libs as fragmentary returns came in.

Hough began his career with the *Star-Telegram* in 1912, starting as circulation manager. He will tell you that he had never heard of radio until that day in 1922 when Publisher Amon Carter, his boss, asked him what he knew about broadcasting. Naturally, Hough says, he didn't want to appear ignorant so he assured Mr. Carter that he knew all about it.

Next thing he knew, Mr. Carter instructed him to buy a station and run it. With a $200 transmitter and $100 spent for installation, the *Star-Telegram* entered radio. As Hough tells it, Mr. Carter broadcast one Sunday night and received a fan note from Mineral Wells, 54 miles away. Convinced there was something to it, he suggested to Hough the need for a larger station. Hough installed a 10-watter and WBAP began to go places.

As fan mail came in, vari-colored pins were stuck into a map of the world, one pin for each known listener. The map was a substantial addition to the studio which consisted of a mike, table and an old Victrola. In Oct. 13, 1922, WBAP's power was increased to 500 watts. By May, 1923 it had 1,500 watts. In 1928, Hough had brought it into the "superpower" 5,000-watt class.

That year, the "Hired Hand" visited the Democratic Convention to do a special events job with Silliman Evans, then a political writer for the *Star-Telegram* and now publisher of the *Chicago Sun*. Somehow they became embroiled in an argument just before Franklin D. Roosevelt nominated Al Smith for the Presidential candidacy. They couldn't decide how to introduce FDR and wondered who he was. Hough was willing to call him "some fellow from New York" but Evans demurred and the result was that listeners heard the now-famous fireside manner before it was identified.

Through radio Mr. Hough aided Senator Tom Connally's first campaign, selling him time in his campaign to convince the electorate. Hough also convinced W. Lee (Pappy) O'Daniel of WBAP's advantages when the latter was first launching himself on small Texas stations with his Hillibilly Doughboys.

Hough's industry service record is distinguished. Modestly he claims that he was always "popping off and getting himself into some new job." His record shows that he served as treasurer of NAB for three terms, was a member of the board of directors for five years and was a member of the industry board to negotiate with ASCAP in the music battle.

In April, 1941 he was named chairman of the Newspaper-Radio Committee. In this capacity he was responsible for relations with the FCC, seeking to convince them that newspapers should not be divorced from radio. To handle this job Hough practically lived in New York for a year. It was an interesting and surprising experience for both New York and Hough. He claims he never got past the seventh grade but he can get a lot said with his own seventh-grade vocabulary.

Harold Hough was born in Mulvane, Kan., Jan. 31, 1887. The family settled in Oklahoma City and Harold Hough got a paper route and formed a combine with three other youngsters. By working hard and long they had a virtual monopoly on paper and magazine sales throughout the city.

During one of the Oklahoma land rushes, Hough was caught by a moving train and dragged under. As a result he lost one foot. When he was able to return to his paper route, he went on crutches. The circulation manager was kinder than the incapacitated youth wanted him to be and gave him the best corner in town. It occurred to Hough that customers might look upon him with pity, seeing him on crutches.

Standing at the corner at 6 a.m. of the first morning his first customer came up, a man he knew. In fact he had been a steady customer for years and always had paid him a nickel. This time he gave him a quarter. That finished Harold Hough's career as a newsboy for he refused "sympathy". He took an inside job as assistant circulation manager. In 1912, noticing an item in a trade paper about the resignation of the *Star-Telegram's* circulation manager, he promptly called Amon Carter for an interview and was in Fort Worth the next day. Starting out at $25 per week, he soon payed his employer dividends to such an extent that Mr. Carter wouldn't print his circulation statements until he had checked them personally. They seemed too high then. Today they represent the largest circulation in Texas.

Harold Hough has chosen to remain a common man despite his prominent position and the affluence his job and his oil investments have brought him. With his wife, whom he married in Oklahoma City in 1910, he lives in a modest home. Fishing is his chief diversion. Recently he purchased a 300-acre farm for the purpose of raising mules. His standards for mules equal those he sets for other folks:

"They'll be high-grade, fancy mules but not too high tone to pull a plow."

Personal NOTES

DAN DONNELLY, former commercial manager of KGB, San Diego, and KDB, Santa Barbara, has joined KFRC, San Francisco, as account executive in the commercial department. Donnelly will take over the duties of Ward Ingrim, former commercial manager of KFRC, now a second lieutenant in the Army Air Forces.

ARTHUR L. FORREST, recently radio director of Lewis Ayer Adv., Charlotte, and formerly promotion manager of WBT, Charlotte, joins NBC's sales promotion department in New York Sept. 14, succeeding William F. Fairbanks who leaves the network after 11 years to join the OWI as assistant chief of the radio bureau's allocation division. Before going to Charlotte, Mr. Forrest was statistician of the New York office of MBS.

W. B. McGILL, KDKA promotion staff member, currently has a display of two charcoal drawings in the NBC offices in New York.

FRANK O'LEARY, of the NBC-Chicago sales staff, has joined the Navy as a lieutenant j. g. in the communications branch and is to start training Oct. 1.

JOHN HOPKINSON, salesman of WJJD, Chicago, has entered the Army at Camp Grant, Ill.

HOLLISTER NOBLE, formerly West Coast publicity director of CBS, Hollywood and now a captain in the Marines, is currently stationed at Quantico, Va.

DAN STARR, account executive of KOMO-KJR, Seattle, has joined the Coast Guard.

FRANK RYAN, formerly manager of CKLW, Windsor-Detroit, and now on loan to the Canadian government from the Hudson's Bay Co., Winnipeg, where he held the public relations post, has joined the new Wartime Information Board at Ottawa, moving from the Wartime Prices and Trade Board, where he was in the information division.

GERRY GAETZ, recently appointed manager of CJRC, Winnipeg, is recovering from pneumonia.

WCAO
in Baltimore

CONSISTENTLY REACHES & INFLUENCES

the cream of your sales potentials

•

600 KC

•

CBS BASIC

•

5,000 WATTS DAY & NIGHT

•

Paul H. Raymer Co.
Nat'l Sales Representatives

GILLES DUHAMEL, program director of CKCV, Quebec, has joined the Royal Canadian Air Force as French language radio and press public relations officer with rank of pilot officer.

NILES GATES, sales manager of C. P. MacGregor Co., Hollywood transcription concern, is the father of an 8 lb. 10 oz. boy born Sept. 9.

PHILIP D. PORTERFIELD has been transferred from national spot sales to network sales at NBC.

KOLIN HAGER, manager of WGY, Schenectady, was guest speaker Sept. 10 on the broadcast, *Walls That Tell a Story*, WGY feature sponsored by Union College and the Albany Chapter of the American Institute of Architects.

JACK O'MARA, promotion manager of WOWO-WGL, Fort Wayne, is the father of a girl born Sept. 6.

JAMES A. MOUNT, salesman at KGW-KEX, Portland, Ore., has been appointed State apparel director of the Office of Price Administration.

T. R. PUTMAN, manager of KFRO, Longview, Tex., has obtained a third class radio operator's license with broadcast endorsement for the operation of KFRO in an emergency.

ALEX W. DANNENBAUM Sr., president of WDAS, Philadelphia, has joined the Coast Guard Reserve as instructor in shooting.

LT. LEON LEVY, president of WCAU, Philadelphia, on leave for active service, has been named treasurer of the drive to be staged in November by the Philadelphia Variety Club for its infantile paralysis fund.

WARNER C. TIDEMANN, assistant manager of KATE, Albert Lea, Minn., is the father of twin boys, John Clayton and James Warner.

JOHN C. ROBERTS, general manager of KXOX, St. Louis, has been named chairman of publicity and promotion of the Citizen's Committee for Navy Recruiting.

PHILLIP G. LASKY, general manager of KROW, Oakland, Cal., was recently reappointed radio chairman of the Red Cross, local chapter. He is also currently serving on the radio committee of the San Francisco War Chest, which begins its fund raising campaign in October.

ROBERT J. SMITH, of the sales staff of WOR, New York, last week joined the station's parent network, MBS, as sales representative.

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TULSA, OKLA.

and other stations, large and small, coast to coast

Available also to agencies and advertisers. For full details, write

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TEXAS RANGERS LIBRARY
HOTEL PICKWICK • KANSAS CITY, MO.

McDowell Named Head Of So. Cal. Association

LAWRENCE W. McDOWELL, commercial manager of KFOX, Long Beach, has been elected president of the Southern California Broadcasters Assn. He succeeds Harry W. Witt, Southern California sales manager of CBS, who headed the trade association for more than two years. McDowell was SCBA executive committee chairman for the past year.

Mr. McDowell

Duke Hancock, manager of KGFJ, Los Angeles, was elected vice-president of the association, with Harry Maizlish, manager of KFWB, Hollywood, taking over as secretary-treasurer. Mrs. Ethel Bell was elected assistant secretary-treasurer, and is the first woman to hold an executive post in the association.

McDonnell Joins KSFO

KSFO, San Francisco, has named Frank R. McDonnell director of national sales. Mr. McDonnell for the past year has been eastern sales representative for WBBM, Chicago. For three years prior to that he was with Radio Sales, national spot sales division for CBS. In San Francisco he will work locally with jobbers, distributors and factory representatives, as well as handle national sales for the station through its representatives, Weed & Co.

Ernie Wins

ERNIE SMITH, baseball sportscaster handling the San Francisco and Oakland baseball broadcasts on KROW, Oakland, Cal. for Wheaties, has been informed by the Knox Reeves Agency, Minneapolis, that he was the winner of a contest among all "Wheaties" sportscasters. He was awarded a War Bond. Recently General Mills held a "copyless" day and instructed all baseball announcers on various stations to write their own copy about Wheaties. Smith's was declared the most original copy.

BEHIND the MIKE

WINFIELD K. LEVI, former promotion manager of WSAI, Cincinnati, who was a selectee last November, last week was commissioned a second lieutenant in the Army Air Forces following completion of the officer candidate course at Miami Beach, Florida.

BILL IRVIN, radio editor of the *Chicago Times*, and his wife, Doris Keane, are the parents of a boy, their first child.

ERIK BARNOUW, freelance scriptwriter and teacher of a radio course at Columbia U, has joined NBC as a script editor, succeeding Brice Disque, Jr., who resigned recently to join the Army Air Forces. Mr. Barnouw will report to Lewis Titterton, manager of NBC's script division.

FLYING OFFICER Andy A. McDermott, in charge of radio for the public relations director of the Royal Canadian Air Force with headquarters in Ottawa, was in New York last week to contact broadcasters on public relations matters dealing with the RCAF. Recently he became the father of a 9-pound boy.

STEVE HEALY, formerly with the Southern California public relations division of the Treasury, has joined the publicity department of NBC, Hollywood. He succeeds Matt Barr who resigned to become publicity director of KFI-KECA, Los Angeles.

BILL PARMELEE, head of script department of KHJ, Hollywood, has resigned to enroll in a business administration course at Occidental College, Cal. Ray Kemper assumes his duties.

BILL MOSHIER celebrated Sept. 11 his third anniversary on KIRO, Seattle with his 773d broadcast of *Farm Forum*.

REX DAVIS, news chief of WCKY, Cincinnati, aired a summary of three years of World War II. The script will be printed for distribution.

JACQUES THIVIERGE, french program director and announcer, and Andy Stuparick, announcer, of CKRN, Rouyn, Que., have joined Canada's armed forces.

CLARENCE LEISURE, formerly of KYA, San Francisco, has joined the announcing staff of KQW, San Jose.

MARVIN STROH, announcer of CKVD, Val d'Or, Que., has joined the Canadian Army.

The ALABAMA TRIO
offers you
Complete Coverage Of A Great Market And A 10% Saving!

In buying radio coverage—just as in war production work—you need the *right combination* of "tools" to get the job done. The "right combination" in Alabama's vast war production market is the ALABAMA TRIO. These three stations blanket the entire state and parts of *six* others. Look into the BIG savings offered by this *right combination*—10%, to be exact!

WSGN BIRMINGHAM WSFA MONTGOMERY WALA MOBILE
REPRESENTED BY HEADLEY-REED CO

EDWARD RUBIN, formerly of RKO Radio Pictures Inc., publicity department, has been named Hollywood consultant to the radio bureau of the Office of War Information, acting as advisor to Nat Wolff, deputy chief.

ERNIE SMITH, sports announcer on the KROW, Oakland, Cal., baseball broadcasts sponsored by General Mills (Wheaties) recently received a War Bond in recognition of his commercial copy. Knox Reeves Adv., agency handling the account had instructed baseball announcers to write their own copy for one specified broadcast.

CONNIE HAINES, Hollywood radio singer, has been signed as featured vocalist on the weekly NBC *Abbott & Costello Show* which starts Oct. 8 under sponsorship of R. J. Reynolds Tobacco Co. (Camel cigarettes).

BERNARD YOUNG, formerly announcer of KTOL, Toledo, and now a private in the Marines, is stationed in Southern California.

WALTER KANER, publicity director of WWRL, New York, has taken on additional duties as advertising and promotion manager of Nu-Ox Products Co., New York, N. Y.

LT. FRED HORTON, USNR, formerly of the NBC sales department is now stationed at Panama City, Fla.

GUY W. LOWE, traffic manager of KXOK, St. Louis, expects to be called to the Army shortly. Bill Gregory of the news department, enlisted as Naval aviation cadet and left recently for pre-flight training at Lambert Field. Bob Seat, promotion manager, on the Army Air Forces reserve list, is awaiting a call to report to duty.

JEANE BROWN (Mrs. Elmer Bosselman), musical director of WOWO-WGL, Fort Wayne, has become the mother of a boy, David. Her husband is stationed at Camp Chaffee, Ark.

JULIAN SCHWARTZ, political reporter of the *Stamford Advocate*, has joined WSRR, Stamford, replacing Harold Yudain, who leaves for the Army.

EDWARD H. LAUX, night news editor and lately assistant sports director at WAAT, Jersey City, has been commissioned first lieutenant in the Army Air Forces and is stationed at Miami Beach.

RHODA LeCOCQ LIPKE, feature writer of KIRO, Seattle, has been sworn in as officer-candidate, Class V-9, in the Women's Naval Reserves, 13th Naval district, Seattle. She hopes to do public relations and radio work for the WAVES.

GORDON WHYTE, freelance writer and producer, has joined the NBC production staff, replacing Lester Vail, now on leave to direct the Theatre Guild stage show *Mr. Sycamore*. Writer and producer of the Eveready broadcasts on NBC, starting in 1927, Whyte later joined N. W. Ayer & Sons, New York, to handle early programs sponsored by R. J. Reynolds Tobacco Co. for Camel cigarettes.

LT. BRUCE DENNIS, formerly special events and publicity director of WGN, Chicago, has completed his six-week indoctrination course at Dartmouth and will be stationed in the Navy public relations division in Chicago.

GEORGE J. MANNINA, assistant in the newsroom of WINS, New York, has joined the Army, and is currently stationed at Camp Upton.

WENDELL NILES, Hollywood announcer, has been given that assignment on the weekly NBC *Bob Hope Show*, sponsored by Pepsodent Co. (toothpaste, powder). Norman Morrell and Thomas Conrad Sawyer are producer and director, respectively of Lord & Thomas on the show which resumes Sept. 22, following a summer layoff.

PRESTIGE

the Reward of 20 Years of Progress

V

20 YEARS OF SERVICE

1922-1942

WSYR

SYRACUSE, N.Y.

NBC

Basic Red

On September 15th, 1942, WSYR enters its twenty-first year. Through two full, eventful decades this station has come to mean certain things to the people of Central New York.

Noah Webster has a meaningful word for what we feel we've earned over these twenty years. He defines it as "a commanding position in men's minds." The word is Prestige. There is no substitute for this in any community. It's the final seal of approval.

To our neighbors, here in this big, thriving, busy community, WSYR has real meaning, tested by time.

WSYR stands for True Service to the neighborhood...service that is felt gratefully by hundreds of organizations and hundreds of thousands of people in our community.

WSYR stands for Integrity . . . it enjoys the trust and confidence inspired by twenty years of sincere patriotism in the very best traditions of radio . . . by twenty years of fair, accurate news reporting . . . by unfailing high standards of entertainment—the best that money can buy, brains can create and talent can devise.

Finally WSYR stands for Friendliness . . . a quality that this neighborhood feels and understands—and generously returns.

We, here at WSYR, are deeply grateful to the people of Central New York whose loyal support of this station has given it such prestige. We are grateful, too, that we have the responsibility of maintaining this reputation for the *next* twenty years.

1922 WSYR 1942

Syracuse, N.Y.

GAYLORD CARTER, organist of CBS, Hollywood, has enlisted in the Army.

HAL SCHER, announcer of CBS, Hollywood, and known professionally as Hal Sawyer, has joined the Navy. He married Fay Sawyer, dancer of Earl Carroll Theatre-Restaurant, that city, on Sept. 12.

PETER DE LIMA, writer on the staff of KFI-KECA, Los Angeles, has been elevated to special features editor. Ken Higgins, announcer, has taken over de Lima's former duties, and in addition several production assignments.

ELIZABETH BEMIS, formerly news commentator of WLW, Cincinnati, has joined the Hollywood staff of CBS, and on Sept. 11 inaugurated a twice-weekly quarter-hour evening commentary on West Coast stations of that network. Styling her program as "humanized commentaries", she is the West Coast's first network woman news analyst.

19th Grid Season

FOR the 19th consecutive year, WWJ, Detroit, will broadcast the entire 10-game football schedule of the U of Michigan beginning Sept. 26. Sponsor, for the third time, will be the Automobile Club of Michigan. Ty Tyson and Paul Williams will be at the mike.

BERT NEVILLE, auditor of KROY, Sacramento, Cal., has been commissioned a first lieutenant in the Army and currently is at Officers' Training School, Miami Beach.

ABBOTT TESSMAN, Hollywood announcer, has been assigned to the weekly quarter-hour BLUE Pacific Coast program, Norman Sper, gridiron prognosticator, which started Sept. 18.

PETER WHITTALL, Winnipeg, has joined the Prairie Region farm broadcast department of the Canadian Broadcasting Corp. at Winnipeg.

BERNICE WHITMAN, former secretary with WOR, New York, and a graduate of Radcliffe College, has joined the WAVES.

WILLIAM J. NELSON, of the promotion department of WLS, Chicago, and Mary Jane Dewey, of Oak Park, Ill., were married Aug. 29.

DAVID YOUNG, former chief of continuity of KHJ, Los Angeles, has been appointed production manager of the station replacing Jim Burton, who has joined Music Corp. of America as special producer. Other appointments at KHJ include Wallace Ramsey as chief of continuity, and Miss Mary Ellen Ryan as assistant traffic manager.

TOM TOWERS, formerly sports announcer of KGMB, Honolulu, has been assigned an instructor of aerial photography at West Coast Air Forces Training Center, Santa Ana, Cal.

HENRY POOLE, formerly chief engineer of radio stations KWAL, Wallace, Idaho and KRJF, Miles City, Mont., is now on active duty with a unit of the Navy's Air Force as aviation radioman first class.

RANDY BLAKE, formerly announcer of WHAS, Louisville, and KNX, Hollywood, and before that vocalist of WJJD, Chicago, has rejoined WJJD, as an announcer.

A. M. WOODFORD, production director of WBAP-KGKO enlisted in the Navy, and is stationed at Farragut, Ia., with warrant officer rating. Gene Reynolds takes his place at WBAP-KGKO.

ESTHER HUFF, a veteran of five years in radio, joined WEBR, Buffalo, to conduct the full hour *Woman's Matinee*.

MATT McENIRY has resigned from KLZ, Denver, and has been replaced by Bob Petri, formerly news announcer with KOB, Albuquerque.

JOSEPHINE MASON, program and traffic director of WIRE, Indianapolis, has joined the program and traffic department of KOB, Albuquerque.

JACK EARLE, announcer of WJW, Akron, has left to attend the U of Chicago. Bob Ingham, formerly with WTOL, Toledo, KLO, Ogden, Utah, and WJW has rejoined the staff of WJW as sports announcer. Garde Chambers, formerly of WHBC, Canton, is also with WJW.

Elson in Navy

Mr. Elson

BOB ELSON, World Series announcer since 1929 and sportscaster of WGN, Chicago, for the past 14 years, on Sept. 14 entered the Navy as a lieutenant senior grade and is in deck volunteer training at Great Lakes, Ill. Red Barber, of WOR, New York, will replace Elson as chief announcer of the series broadcast on MBS. Elson broke into radio in 1927 on WAMD, Milwaukee, moved to KWK, St. Louis, in 1928, and joined WGN six months later as sports announcer.

JOSEF WASHINGTON HALL, Hollywood news analyst known professionally as Upton Close, is the father of a 9-lb. boy born Sept. 11.

VAL BROWN, formerly announcer of KIEV, Glendale, Cal., has joined KHJ, Hollywood, in a similar capacity.

PHIL GULLEY has resigned at WCBI, Columbus, Miss., to join WALA, Mobile, Ala. Replacing him will be Billy McHan. Jane Burrows replaces Ruth Lee on WCBI.

MORT LAWRENCE, who resigned as all-night announcer for the *Dawn Patrol* program of WIP, Philadelphia, has joined WHN, New York.

ANNEMARIE EHLERS has joined the continuity department of WFIL, Philadelphia, replacing Rosalind Largman, resigned.

LEE VINES, announcer of WIP, Philadelphia, has resigned to join a network station in New York.

BETTY BLACKBURNE, former society writer for the *Omaha* (Neb.) *World-Herald* and continuity and script writer for KOIL, Omaha, has joined the continuity department of WMBD, Peoria, Ill.

CLAIRE McMULLEN, formerly in the advertising service department of the Chilton Co., Philadelphia publishing concern, has joined the promotion department of WFIL, Philadelphia, as copywriter.

PARAGON (Ky.)
AIN'T
NO
NE PLUS
ULTRA!

We hope we're not disillusioning anyone, but where sales possibilities are concerned, Paragon (Ky.) ain't the peak of perfection! On the other hand, the Louisville Trading Area—with $600,000,000 buying power (57.5% of Kentucky's total!)—is *something* to do something about! . . . The way to do it, of course, is with WAVE—the complete-coverage station that does the job for about half the cost of any other medium! Let's do it for *you!*

LOUISVILLE'S
WAVE
5000 WATTS . 970 KC
N. B. C.
FREE & PETERS, INC., NATIONAL REPRESENTATIVES

SOUTH CAROLINA'S GREATEST COVERAGE!
WIS
NBC Network 560 KC 5000 WATTS
COLUMBIA, S.C.
FREE & PETERS, Inc National Representatives

Meet the LADIES

CAROL KING

WHEN a famous actress becomes a radio voice, she usually keeps her name. But Carol King didn't want her name hitched to any stars. She was well-known as Jean Oliver, a leading lady in dramatics throughout the nation for a decade. However, when she agreed to begin a twice-weekly series of news, features and women's interviews on WCKY, Cincinnati, she insisted that her name be a new one, both to her friends and radio listeners. She chose Carol King as her 'nom de radio'.

As Jean Oliver she made her stage debut with Grace George in "Ruined Lady", a successful Broadway play. Her second "debut" as Carol King has brought her equal acclaim and success. For a year she has been women's news-feature commentator, interviewing women in Cincinnati news and those of national interest and prominence. Her programs have become so popular that the program was recently increased to a five-times-weekly series.

Carol King in private life is Mrs. L. B. Wilson, wife of the WCKY owner.

CLIFF HOWELL, Hollywood announcer, has been assigned to the weekly half-hour CBS news dramatization, *I Was There*, sponsored by General Petroleum Corp. He replaces Art Gilmore, resigned. Bob Hafter is producer.

New ASCAP Radio Series

now available, without charge, to all ASCAP Licensed Stations. Write or wire today.

ASCAP
Radio Program Service
30 Rockefeller Plaza
New York

FRED WEIHE, freelance producer of New York, has moved to Chicago as producer of NBC *Lone Journey*.

JOHN THOMPSON of the news and special events staff of NBC-Chicago, is the father of a girl born Sept. 5.

JAMES BUCHANAN, formerly of the news staff of KMOX, St. Louis, has rejoined the Chicago office of UP.

ELLEN BOLTZ, graduate of the Beck School for Radio, Minneapolis, is announcer of KVOX, Moorhead, Minn.

MRS. HUGO BUTLER, known professionally as Jean Rouverol and featured as Betty in the NBC *One Man's Family*, sponsored by Standard Brands Inc. (Fleischmann's yeast), is the mother of a girl born Sept. 11.

BEN ALEXANDER, commentator-announcer of NBC, Hollywood, is the father of an 8½-lb. boy born Sept. 13.

FLOYD RYEL, announcer of WCAO, Baltimore, is the father of a girl, Joyce Eileen.

TED KIMBALL, announcer and farm director of KSL, Salt Lake City, entered the Naval training station at San Diego, Cal. He hopes to do work in public relations and recruiting.

Hicks in Servce

GEORGE HICKS of the BLUE news and special features staff, this week left the network on a confidential mission as BLUE war correspondent with the Navy. During his absence, Joan Harding, who has been doing the Friday broadcasts of the five-times-weekly *Men of The Sea* programs, of which Hicks is m.c., will also handle the Monday and Wednesday shows from Washington, while Bill Baldwin will take the Tuesday and Thursday stanzas from San Francisco.

BOB BOUCHIER, graduate of the Beck School for Radio, Minneapolis, has joined the staff of KOBH, Rapid City, S. D.

CY HARRICE, announcer of WLS, Chicago, is the father of a boy born Aug. 25.

HAROLD SWISHER, formerly city editor of the *Hollywood Citizen-News*, has been appointed UP Pacific Coast radio news editor and manager with headquarters in Los Angeles.

HENRY T. MURDOCK, former drama editor of the defunct *Philadelphia Evening Ledger*, who joined the staff of WCAU, Philadelphia, earlier this month as assistant to Kenneth W. Stowman, publicity director and station promotion head, has taken over the directorship of that office. Mr. Stowman has resigned to enter the armed forces. Hugh Walton was promoted to supervisor of announcers and Charles deKlyn took over Walton's post as head of the transcription department. Joe Bolton resigned from the announcing staff and Carl Owen has been appointed morning supervisor. Two more staff members have enlisted in the Army. Joey Kearns, musical director of WCAU for the past three years, reports for active duty. His successor will be Jimmy Warrington, staff arranger. Bob Laurence resigned from the news staff to enlist in the Army.

JOHN HOPKINSON, for six years a salesman at WJJD, Chicago, was inducted into the Army at Camp Grant, Ill., Sept. 18. Newcomer to the station's announcing staff is Raddy Blake, formerly of KNX, Hollywood, and WHAS, Louisville.

32 CONSECUTIVE MONTHS OF GAIN!

FOR 32 consecutive months, WGN has shown an increase over the corresponding month of the previous year in local and national spot time sales.

Here is testimony in advertisers' dollars to the effectiveness of advertising on WGN.

These 32 months of gain are even more remarkable when you consider that WGN's volume of local and national spot time is greater than all other 50,000 watt Chicago stations combined.

A Clear Channel Station

50,000 Watts WGN 720 Kilocycles

MUTUAL BROADCASTING SYSTEM

EASTERN SALES OFFICE: 220 E. 42nd Street, New York, N. Y. PAUL H. RAYMER CO., Los Angeles, Cal., San Francisco, Cal.

CBC Thomson Decision Delayed Pending Probe

RECOMMENDATION of the appointment of Dr. J. S. Thomson, president of the U of Saskatchewan, to be general manager of the Canadian Broadcasting Corp. [BROADCASTING, Sept. 7] has been referred back to the CBC Board of Governors by the Canadian government, according to J. T. Thorson, National War Service Minister. The recommendation was sent back on a question of salaries, the CBC Board, of which Dr. Thomson is a member, recommending $15,000 for Dr. Thomson, $14,000 each for Maj. Gladstone Murray, present general manager, and Dr. Augustin Frigon, assistant general manager.

The government did not question the appointment of Dr. Thomson, Mr. Thorson said. The sole point at issue was the salaries. He declined to comment further, but it is understood the government felt the salaries were too high.

WELCOME TO SCHENECTADY!

WGY Helps Build Community Morale and Friendliness Through Weekly Dramatic Broadcasts

DEDICATED to neighborliness and to an appreciation of the "home town," WGY, Schenectady, has been airing *Your Home Town*, Monday night quarter-hour.

Mr. Peare

Recently there has been an influx of war workers and the city has been confronted with a problem of morale which has been met partially by the YMCA, the YWCA, churches and industrial organizations. These have tried to make the workmen, their wives and children feel at home. Radio has cooperated to help impart friendliness to the stranger by producing an informal dramatic program weekly. The idea was conceived by Robert S. Peare, manager of Broadcasting and publicity for General Electric. It's the story of Schenectady in the making, from its earliest settlement in the days when the nation was young, to the development of a city whose population has jumped to six figures.

Community Life

The writer, Charles H. Huntley, uses narrative and dramatic dialogue to make historical characters and events real. Lively human interest sketches and dramatic episodes are highlighted by the WGY Players, oldest dramatic group in radio. Older residents are encouraged to make the newcomer feel he is "home". Newcomers and established residents are made conscious of the city's life and problems. They are encouraged to have a share in promoting its welfare, through knowing the city.

The scripts appear to be achieving their purpose. Dr. Dixon Ryan Fox, president of Union College, wrote to Author Huntley: "When I think of the stodgy, commonplace history talks that most of us have given over the radio, I am the more impressed with the liveliness and human interest that has been worked into your program."

Arthur Pound, State Historian, has expressed interest in the broadcasts, and others have written appreciation. Some have added to the historical data and have aided in clarifying controversial points. One compliment was especially appreciated by the author. It came from a sixth-grade student. He wrote that he liked *Your Home Town* "because I could understand it."

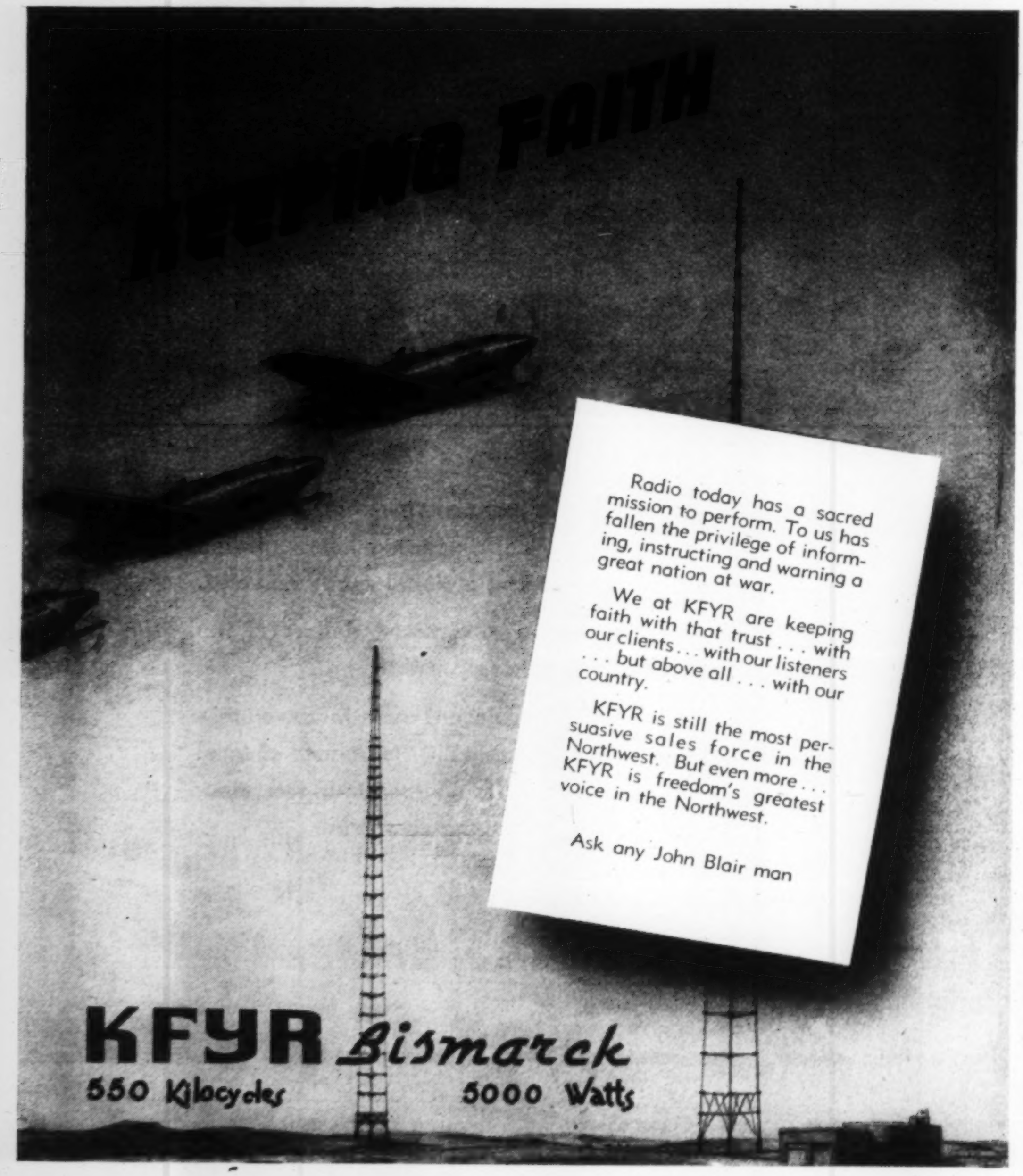
Mr. Huntley, who is with General Electric, was for many years chief editorial writer on the *Schenectady Gazette*. Since 1904, when he came to the city, he has been a keen student of the history of the Mohawk Valley.

Federal Judge Barnes Faces Busy Radio Season

JUDGE JOHN P. BARNES of the U. S. District Court for the Northern District of Illinois, Chicago, is going to have a busy fall and winter court session hearing four major cases involving radio litigation.

The Dept. of Justice suit against Petrillo's AFM has been set for hearing before Judge Barnes on Oct. 12. He will also hear the Government's anti-trust actions against RCA-NBC and against CBS as well as the MBS $10,000,000 triple damage suit against RCA-NBC. The latter three cases are tentatively on the docket for Dec. 11.

NED LEFEVRE, NBC announcer, will marry Barbara Luddy, actress in NBC's *Lonely Women*, Sept. 18, in Winnetka, Ill. Mrs. Joseph Ainley, known to NBC listeners as Betty Lou Gerson will be matron of honor. Ushers will be Michael Roy, BLUE M. C. and Dave Garroway, NBC announcer.



Radio today has a sacred mission to perform. To us has fallen the privilege of informing, instructing and warning a great nation at war.

We at KFYR are keeping faith with that trust . . . with our clients . . . with our listeners . . . but above all . . . with our country.

KFYR is still the most persuasive sales force in the Northwest. But even more . . . KFYR is freedom's greatest voice in the Northwest.

Ask any John Blair man

KFYR *Bismarck*
550 Kilocycles 5000 Watts

NOPE, YOU CAN'T GET ME ON YOUR ARK. THERE'S NO RADIO ON BOARD AND I WANT TO LISTEN TO
KXOK
ST. LOUIS, MO.

630 KC. 5000 WATTS DAY AND NIGHT ★ BLUE NETWORK

Merchandising & Promotion

Klenzol Search—Trick Wallets—Cash & Chips—Gridiron Tips—Plugs About the War

NU-OX PRODUCTS Co., Long Island City, N. Y., in a fall newspaper and radio campaign for Klenzol, a soapless cleaner, will launch a half-hour program on WWRL, New York, which will feature two contests, for a 13-week period, starting Sept. 28.

Titled *Klenzol Talent Quest*, the program will sponsor a competition for the Klenzol Poster Girl of 1943. In addition, the program will seek the most talented amateur in New York, the contestants furnishing the talent on the broadcast.

Winners on each week's program will be chosen by the amount of studio applause they receive. Finalists will be selected by both listening and studio audience. Each vote cast is to be accompanied by a box top or wrapper from a Klenzol container. Cash prizes will be awarded in both contests. Three winners of the Poster Girl contest will receive a free scholarship to the Barbizon Model School.

Nu-Ox continues spot announcements on WINS and WEVD, New York, started in the early part of the year. Walter Kaner, newly appointed advertising and promotion manager for the firm, placed the account. Kaner is also publicity director of WWRL.

* * *

Sales Reminder

ADVERTISING managers, timebuyers and national and local account executives are receiving plastic letter openers attached to a calling card and pointing forcefully to the heart of the sales message of KSL, Salt Lake City.

WILLIAM L. SHIRER, CBS news analyst, resumed his Sunday news program on CBS Sept. 20, having returned from his first vacation since the start of World War II. While vacationing on Long Island with his wife and two children, Shirer completed work on a new drama of continental Europe in the 1930's.

BENNIE BEARDSLEY is the first feminine announcer on WRBL, Columbus, Ga. Two other women, Billie Wismer and Gertrude Handley, will soon join her.

WEAF Gifts

WEAF, New York, in remembrance of its 20th anniversary on Aug. 16, 1942, is sending out "birthday gifts" to radio editors and advertisers consisting of black leather wallets with trick elastic holders for bills, initialed for the individual and with the letters WEAF.

An enclosed card inside tells the recipient "If you can't make it work, simply call CI 7-8300—ask for your favorite WEAF salesman. He'll be glad to come by and not only show you how it works—but how to keep it filled."

* * *

Chips and Cash

TEN large bags of potato chips and prizes of $10 in cash go each week to listeners who most nearly predict the correct final scores of three football games chosen by Sportscaster Morey Owens in his five-minute show, *Football Forecast*, on WROK, Rockford, Ill., a five-nights-weekly broadcast sponsored by Blue Star Potato Chips.

* * *

WNOX Booklet

SIX years of the WNOX *Midday Merry-Go-Round* is reviewed in a 14-page booklet distributed by that Knoxville station to exploit its 85-minute six-weekly participating show. Booklet contains testimonials, information about the talent, program response, and sales data.

* * *

Grid Schedule

OFFICIAL SCHEDULE of all pro National League Football games is being offered during baseball broadcasts on WHN, New York, to tie in the station's coming broadcasts of all New York Giants gridiron games. P. Lorillard Co., New York, is the sponsor for both series.

* * *

War Plugs

INCORPORATING a plug for patriotism, announcers of KNX, Hollywood, seven times daily, following station identification, introduce a phrase merchandising national morale. Typical is "when you buy a bootleg tire you help a thief and betray a soldier."

• *$60,000,000.00 victory project* comes to WJHL's primary coverage area. 16,000 new workers plus their families are booming this area's retail sales. WJHL is the only single medium that can reach this new market.*

*IN ADDITION TO TWO $25,000,000 TVA DAMS NOW UNDER CONSTRUCTION.

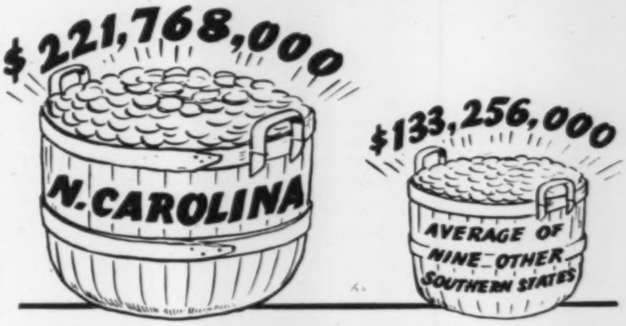
1000 WATT • 910 KC • NBC BLUE

SPOT SALES, Inc.
Representatives

WJHL
Johnson City, Tenn.
W. Hanes Lancaster
Manager

NORTH CAROLINA is the SOUTH'S No. 1 AGRICULTURAL STATE

CASH INCOME AND GOVT. PAYMENTS
Source: — Department of Agriculture, 1940



WPTF with 50,000 Watts in RALEIGH is NORTH CAROLINA'S No. 1 SALESMAN

NBC — 680 K.C.

FREE & PETERS, INC. National Representatives

BALTIMORE'S BLUE NETWORK OUTLET

WCBM

John Elmer, President
George H. Roeder, Gen. Manager
National Representatives:
SPOT SALES, INC.
New York - Chicago - San Francisco

Agencies

WILLARD E. HENGES, with Graybar Electric Co. since 1913, has been appointed district manager at Graybar-St. Louis, replacing George Corrao, who will retire.

JOHN F. PRICE, vice-president and account executive in the Chicago office of Sherman K. Ellis & Co., and E. S. Pratt, vice-president in charge of media in the firm's New York office, have been elected directors of the agency.

DEAN L. SIMMONS, radio director of the Mayers Co., Los Angeles agency, and Pauline Dockter were married Sept. 12 in that city.

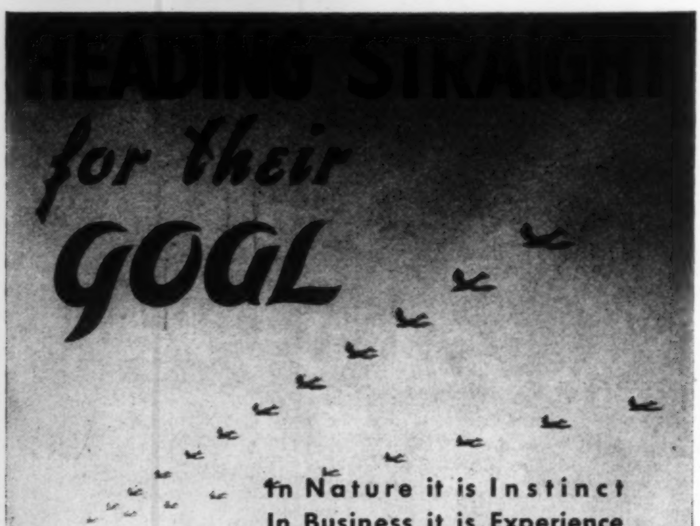
TED SHERDEMAN, writer-producer of Young & Rubicam, has been commissioned a lieutenant in the Army, and has been assigned to the Hollywood staff of the Special Services Department. Working under Major Tom Lewis, he is associated with Capt. Mann Holiner and Capt. True Boardman.

KENNETH C. GUNTER, production manager of Anderson, Davis & Platte, New York, has taken on the additional duties of office manager.

HENRY H. BARNHART Jr., formerly of the copy department of J. M. Mathes Inc., New York, has joined Federal Adv. Agency, New York, in a similar capacity.

DORA MAY TALCOTT, formerly of the publicity department of BBDO, New York, has joined the Institute of Public Relations, New York.

FLETCHER TURNER, of the radio department of J. M. Mathes Inc., New York, is the father of a baby girl, named Jane Lippincott. Mrs. Turner, the former Dorothy Lippincott, was at one time in the agency's publicity department.


HEADING STRAIGHT for their GOAL

In Nature it is Instinct
In Business it is Experience

Our experience is a constant asset to our clients

experienced

WEED AND COMPANY
RADIO STATION REPRESENTATIVES
NEW YORK • DETROIT • CHICAGO • SAN FRANCISCO

Reggie Schuebel Heads Duane Jones Media Staff

REGGIE SCHUEBEL,, former radio director of the Biow Co., New York, who resigned from that agency July 6 after 11 years in its radio department [BROADCASTING, July 13], has joined Duane Jones Co., New York, as media director. According to the Agency, Miss Schuebel will have complete charge of the media department, with particular reference to radio timebuying and station relations.

Prior to joining Biow back in December, Miss Schuebel handled advertising production for *Popular Radio Magazine* while working for E. R. Crow, publishers representative for various pulp magazines. At Biow, she became secretary to Milton Biow, president of the agency, later taking over the Bulova Watch Co. account and finally assuming the position of radio director for Biow's many radio accounts.

SHERWOOD ARMSTRONG, account executive of Lord & Thomas, Los Angeles, has joined the Coast Guard. He married Pamela Drake, of Beverly Hills, Cal., on Sept. 10.

WARREN P. FEHLMAN, head of the Huntington Park, Cal. agency bearing his name, is recuperating from an appendicitis operation.

ALFRED STANFORD has resigned as vice-president and director of Compton Adv., New York, to accept a commission as lieutenant commander in the Navy. Raymond E. Jones Jr., formerly of the firm's radio department, has also joined the armed forces. He is in the Army.

ALLAN RADER, copywriter of Young & Rubicam, New York, has joined the Navy, and James O'Neill, agency's assistant director on the West Coast, has been drafted.

FRANK O'CONNOR of the production staff of J. Walter Thompson Co., New York, where he has handled commentators and sportscasting shows, is in the Army.

ROBERT SALTER, formerly in the radio department of Buchanan Adv., New York, has joined D'Arcy Adv. Co., New York, as assistant to Paul Dudley, radio director. Dudley is currently writing, directing and producing the *Spotlight Bands* program on BLUE for Coca-Cola.

CAMPBELL-MITHUN, Minneapolis, has opened a Chicago service office in the Palmolive Bldg., it was announced by Ralph B. Campbell, president, who was in Chicago last week setting up the office. Telephone is Superior 8350.

Biow L. A. Office

BIOW Co. has established West Coast radio production offices in Columbia Square Bldg., 6111 Sunset Blvd., Hollywood. Vick Knight, recently appointed the firm's radio department executive producer, will divide his time between that office and New York, supervising various sponsored shows produced by that agency. Myron Dutton, formerly producer of NBC, Hollywood, who joined the agency in a similar capacity, is currently assigned to the weekly NBC *Johnny Presents Ginny Simms*, sponsored by Phillip Morris Co. (cigarettes). Ethlyn (Skip) Bookwalter, formerly in charge of the script department of CBS, Hollywood, has been made agency office manager in that city.

Everling's Agency

LAWRENCE I. EVERLING, with Philadelphia agencies for 20 years, has opened an agency under his name in Philadelphia with offices at 1700 Walnut St. His list of clients, headed by the Adam Scheidt Brewing Co., Norristown, Pa., are those with whom he has been associated for some time. Until opening his own agency, Mr. Everling was account executive of Carter-Thomson Co., Philadelphia advertising agency which went out of business earlier this month. Russell K. Carter, for 11 years president of the Carter-Thomson Co., joined Gray & Rogers, Philadelphia agency, as account executive. Stuart R. M. Thomson, partner in the defunct agency, has become advertising manager of the John Middleton, Inc., Philadelphia tobacco concern, whose account he previously handled.

Harry Meyer

HARRY MEYER, outstanding figure in St. Louis in the advertising field for 20 years, died Sept. 11. Born in Dauborn, Germany, in 1865, and educated at Frankfort-Au-Mein, he came to the United States as a boy of 16 years and became interested in advertising in Fort Worth. He went to St. Louis in 1898 where in 1901 he and Major Robert E. Lee organized the St. Louis Advertising Club, originally called the St. Louis Men's League. He was the club's first president. For 20 years, he has been with Ross-Gould Co. as its first vice-president in charge of advertising.

Butler to McCann-Erickson

WILLARD BUTLER, formerly radio timebuyer of Erwin, Wasey & Co., New York, on Sept. 21 will join McCann-Erickson, New York, in a similar capacity, succeeding O. M. Schloss Jr., who is joining the station relations department of the BLUE Network. Prior to his timebuying postion at Erwin, Wasey, where he had been handling that agency's varied spot radio accounts, Mr. Butler was with NBC for nine years. He joined the network in 1933 and became manager of the spot and local sales traffic division.

WGBR, Goldsboro, N. C. has appointed Forjoe & Co. as exclusive national representative, effective immediately.

The SONG HITS from
Walt Disney's Feature Picture
Bambi

- ★ Love Is a Song
- ★ Twitterpated
- ★ Thumper Song
- ★ Let's Sing a Gay Little Spring Song
- ★ Little April Shower

Broadcast Music, Inc.
580 Fifth Avenue
New York City

New Transmitter Opened by KMPC

10-kw. RCA Plant Is Put in Service at Beverly Hills

HAVING overcome many priority obstacles occasioned by the war, KMPC, Beverly Hills, Cal., on Sept. 18 dedicated its new 10,000-watt RCA transmitter and put the equipment into operation with an 18-hour salute to American heroes. With consent of advertisers, all commercials were cancelled for the period. Cooperating with the Treasury Dept., the full 18 hours were given over to accelerating sale of War Bonds and Stamps. Goal was set at $180,000 for the day.

Mr. Reynolds

On the program were mayors of 44 towns in Southern California, as well as industry and civic leaders, defense workers and labor organization heads. Participating in the station's initial broadcast under the new power increase were many noted Hollywood film and radio personalities. All talent were required to make bond purchases.

Unique Transmitter

Complimenting their sister station, WJR, Detroit, and WGAR, Cleveland, sent special transcribed programs. G. A. (Dick) Richards is president of the holding company operating those stations.

The new plant, RCA throughout, was installed at an overall cost, including transmitter building, equipment and site, of approximately $110,000, according to Robert O. Revnolds, general manager of KMPC. Transmitter is located in North Hollywood, with studios at 9631 Wilshire Blvd., Beverly Hills. Power increase was granted KMPC Sept. 3, 1941.

The new directional transmitter, said to be the only one of its kind released by RCA, was set up under direction of Lloyd Sigmon, chief engineer, with assistance of Morrie Pierce, chief engineer of WGAR. Station has operated on 5,000 watts day and 1,000 night since 1940. Prior to that KMPC operated on 500 watts as a time-sharing station. It retains its clear channel frequency of 710 kc.

Coast Series

PACKARD-BELL Co., Los Angeles (radio and equipment mfrs.), dormant for many years, on Oct. 11 starts sponsoring a weekly quarter-hour dramatized narrative program, *Newsmakers*, on 5 NBC Pacific Coast stations (KFI KPO KGW KOMO KMJ), Sunday, 3:45-4 p.m. (PWT). Contract is for 52 weeks. Written by Warren Lewis, series will dramatize stories of living heroes. Larry Keating has been signed as narrator-announcer, with Arnold Marquis as director. Barton A. Stebbins Adv., Los Angeles, has the account.

AGENCY *Appointments*

HERBST & KLEIN, Philadelphia (jewelers), to Stewart-Jordon Co., Philadelphia. William H. H. Neville account executive.

BANKERS LIFE Co., Des Moines (insurance), to MacFarland, Aveyard & Co., Chicago. National magazines will be used beginning in December. Other media plans undecided.

LIBERTY MAGAZINE, New York, to Erwin, Wasey & Co., New York.

SWIFT & Co., Chicago, (soap products, ice cream, oleomargine) to Needham, Louis & Brorby, Chicago.

COOPERATIVE LEAGUE OF THE U. S., New York, (League activities) to Atherton & Currier, Inc., New York. Radio and newspapers.

TUCKO Corp., Fort Worth, (Athlete's Foot Remedy) to Cole & Co., Memphis. Radio and newspapers.

WHITE LABS., Newark, (Clo-Trate) to Lawrence Everling Adv., Philadelphia.

DOVER BREWERIES, Hartford, Conn., to H. A. Salzman Inc., N. Y. Using spot announcements in New England markets.

Anne Director Heads KQW Sales Promotion

ANNE DIRECTOR, formerly with J. Walter Thompson Co., San Francisco, and Erwin, Wasey & Co., has been named sales promotion manager of KQW, San Francisco, according to Ralph R. Brunton, president.

Miss Director succeeds C. W. Reed who has joined Batton, Barton, Durstine & Osborn agency. With J. Walter Thompson, Miss Director had charge of radio advertising, promotion and publicity for Seattle, Los Angeles and San Francisco accounts.

RCA Dividend

RCA board of directors declared quarterly dividends of 87½ cents per share of $3.50 first preferred stock and $1.25 per share of "B" preferred, at the Sept. 11 board meeting. Dividends cover the period from July 1 to Sept. 30 and are payable to stockholders of record at the close of business Sept. 21.

Wylie To Ayer

MAX WYLIE, former vice-president in charge of radio of Blackett-Sample-Hummert, Chicago, who resigned Aug. 15 from that position is joining the radio department of N. W. Ayer & Son, New York, in an executive capacity, effective Sept. 21. Prior to his year and a half with B-S-H, Mr. Wylie was script editor of CBS with headquarters in New York. He is well known for his annual publications of the "Best Broadcasts" of the year, the current volume being due for publication this fall. The exact nature of his duties at Ayer were not revealed by the Agency.

Mr. Wylie

WEIM, Fitchburg, Mass., has appointed Burn-Smith Co., as national representative.

Battle Flags!

All of us at the Hallicrafters are both proud and humble to have important assignments in defeating America's enemies.

That our efforts have justified the award of the famous Army-Navy "E" flag is a great honor. We shall keep it proudly flying.

all of the hallicrafters

XUM

THE *Business* OF BROADCASTING

STATION ACCOUNTS

sp—studio programs
ne—news programs
t—transcriptions
sa—spot announcements
ta—transcription announcements

WHK-WCLE, Cleveland

Dr. W. B. Caldwell, Inc., Monticello, Ill. (Dr. Caldwell's Laxative Senna), *ta*, thru Sherman & Marquette, Inc., Chicago.

Grove Labs., Chicago (Bromo Quinine), 66 *ne* thru Russel M. Seeds Co., Chicago.

Belgian Information Center, N. Y., 2 *ne* weekly, 13 weeks, thru Albert Frank-Guenther Law, N. Y.

Hartung Aircraft Corp., Cleveland (aircraft school), 1 *sp* weekly, direct.

Marlin Firearms Co., New Haven, Conn. (razor blades), 5 *ta* weekly, 13 weeks, thru Craven & Hedrick, N. Y.

Sunway Vitamin Co., Chicago, 1 *sp* weekly, thru Sorensen & Co., Chicago.

General Motors Corp., Detroit, (automobile products), 1 *sp* and *t* weekly, 13 weeks, thru Campbell-Ewald, Detroit.

Manhattan Soap Co., N. Y. (Sweetheart soap), 3 *ne* weekly, 1 year, thru Franklin Bruck Adv. Corp., N. Y.

WRC, Washington

C & P Telephone Co., Washington, 4 *sa* weekly, 4 weeks, thru Henry J. Kaufman, Adv., Washington.

Douglas Shoe Co., Boston, 3 *sa* weekly, 13 weeks, thru H. Cabot & Co., Boston.

Grabosky Bros., Philadelphia, (Amerada cigars) 39 *sa* thru Harry Feigenbaum Adv. Agcy, Philadelphia.

Griffin Mfg. Co., Brooklyn, (shoe polishes), 3 *sa* weekly, 52 weeks, thru Bermingham, Castleman & Pierce, N. Y.

Johnson & Johnson, New Brunswick, N. J., (surgical dressings), 170 *sa*, thru Young & Rubicam, N. Y.

Phillips Packing Co., Cambridge, Md., (Phillips soups), 156 *sa* thru Aitken-Kynett Co., Philadelphia.

Rice-Schmidt Baking Co., Washington, (bread), 84 *sa*, thru W. A. Schautz, N. Y.

WIND, Chicago-Gary

Rit Products Corp., Chicago (dyes), 11 *sa* weekly, 15 weeks, thru Earle Ludgin Inc., Chicago.

Ward Baking Co., Chicago (bread, cakes), 1 *sa* weekly, thru W. E. Long Co., Chicago.

Chicago Sun., Chicago (newspaper), 9 *sa*, thru Wade Adv. Agency, Chicago.

KFAC, Los Angeles

Sears, Roebuck & Co., Los Angeles (retail), 150 *sa*, thru Mayers Co., Los Angeles.

Wilson & Co., Los Angeles (Oleo, Mor), 2 *sp* weekly, thru Brisacher, Davis & Staff, San Francisco.

WOV, New York

National Shoe Stores, New York, 3 *sp* weekly, 16 weeks, thru Emil Mogul Co., N. Y.

Stanback Co., Salisbury, N. C. (headache powders), 12 *ta* weekly, 52 weeks, thru Klinger Adv. Corp., N. Y.

Servus Clothes, New York (men's clothes), 6 *sp* weekly, 52 weeks thru Klinger Adv. N. Y.

Stella Cheese Co., Brooklyn, 6 *sp* weekly, 52 weeks, thru Commercial Radio Service, N. Y.

Sachs Furniture Co., New York, (household appliances, furniture), 5 *ne* weekly, 26 weeks, placed direct.

O'Sullivan Rubber Co., Winchester, Va. (rubber heels), 6 *sa* weekly, 13 weeks, thru Bermingham, Castleman & Pierce, N. Y.

B-C Remedy Co., Durham, N. C., 28 *ta* weekly, 52 weeks, thru Charles W. Hoyt Co., N. Y.

Mendenhall Mfg Co., New York (perfume) 6 *sp* weekly, 13 weeks, placed direct.

WFIL, Philadelphia

Carter Products, New York (Carter's Little Liver Pills), 6 *ta* weekly, for 52 weeks, thru Ted Bates, N. Y.

Sam Gerson, Philadelphia (men's clothing), 5 *sa* weekly, for 52 weeks, thru Harry Feigenbaum, Philadelphia.

Parisian Tailors, Philadelphia (men's clothing), 1 *sp* weekly, for 52 weeks, thru Philip Klein, Philadelphia.

Jacob Hornung Brewing Co., Philadelphia (beer), 1 *tp* weekly, for 13 weeks, thru John Falkner Arndt, Philadelphia.

O'Sullivan Rubber Co., Winchester, Va. (O'Sullivan Heels), 6 *sa* weekly, for 10 weeks, thru Bermingham, Castleman & Pierce, N. Y. C.

Lever Bros. Co., Cambridge, Mass. (Lifebuoy Soap), 8 *sa* weekly, for 5 weeks, thru Ruthrauff & Ryan, N. Y.

KFI, Los Angeles

Pure Food Co., Mamaroneck, N. Y. (Herb-Ox bouillon cubes), 5 weekly *sa*, thru J. M. Mathes Inc., N. Y.

Beech-Nut Packing Co., Canajoharie, N. Y. (chewing gum), 6 weekly *sa*, thru Newell-Emmett Co., N. Y.

WABC, New York

Griffin Mfg. Co., Brooklyn (shoe polishes), 3 *sa* weekly, thru Bermingham, Castleman & Pierce, N. Y.

Select Theatres Corp., New York ("I Killed the Count"), weekly *sa*, thru Blaine-Thompson Co., N. Y.

KROW, Oakland, Cal.

Oakland Post Enquirer, Oakland, Cal. (newspaper), 7 weekly *sp*, placed direct.

Pioneer Beverage Co., Oakland, Cal. (Golden Bridge beverages), 35 weekly *sa*, thru Ryder & Ingram, Oakland, Cal.

CJCA, Edmonton, Alta.

Miles Labs., Toronto (Alka-Seltzer), 4 *t* weekly, thru Cockfield, Brown & Co., Toronto.

WLS, Chicago

Grove Labs., St. Louis (Bromo Quinine), 2 *sp* weekly, thru Russel M. Seeds Co., Chicago.

Little Crow Milling Co., Warsaw, Ind. (Coco-Wheats), 6 *sp* weekly, thru Rogers & Smith, Chicago.

Ball Brothers Co., Muncie, Ind. (fruit jars, caps), 5 *sa* weekly, thru Applegate Adv. Agency, Muncie.

Manhattan Soap Co., New York (Sweetheart soap), 3 *sa* weekly, thru Franklin Bruck Adv. Corp., N. Y.

Lane Bryant, Indianapolis (women's apparel), 6 *sa* weekly, thru E. H. Brown Adv. Agency, Chicago.

Campbell Cereal Co., Chicago (Malt-o-Meal), 6 *sa* weekly, thru H. W. Kastor & Sons Adv. Co., Chicago.

Quaker Oats Co., Chicago (Sparkies), 10 *sa* weekly, thru Ruthrauff & Ryan, Chicago.

Pan American Coffee Bureau, New York, 3 *sa* weekly, thru J. M. Mathes Inc., N. Y.

Hubinger Co., Keokuk, Ia., (Elastic starch), 12 *sa* weekly, thru Ralph Moore Inc., St. Louis.

G. E. Conkey Co., Cleveland (stock, poultry feeds, remedies), 7 *sa* weekly, thru Rogers & Smith, Chicago.

WMAQ, Chicago

Grove Labs., St. Louis (Bromo-Quinine), 3 *sp* weekly, 22 weeks, thru Russel M. Seeds Co., Chicago.

Peter Paul Candy Co., Naugatuck, Conn. (Mounds candy bars), 3 *sp* weekly, 13 weeks, thru Platt-Forbes, N. Y.

Beaumont Co., St. Louis (4-Way Cold tablets), 14 *sa* weekly, 24 weeks, and 1 *sp* weekly, 52 weeks, thru H. W. Kastor & Sons Adv. Co., Chicago.

Lever Bros., Cambridge (Vimms vitamin pills), 5 *ta* weekly, 6 weeks, thru BBDO, N. Y.

Trianon Amusements (Aragon and Trianon ballrooms), 5 *ta*, thru Buchanan & Co., Chicago.

Interstate Bakeries Corp., Schultze Baking Co., Kansas City, Mo. (Butternut bread), 21 *ta* weekly, 17 weeks, thru R. J. Potts & Co., Kansas City.

Vick Chemical Co., New York (Vaporub), 3 *sp* weekly, 26 weeks, thru Morse International, N. Y.

Prima-Bismarck Brewing Co., Chicago, 1 *sp* weekly, 12 weeks, thru Newby, Peron & Flintcraft, Chicago.

Campbell Cereal Co., Minneapolis (Malt-o-Meal), 6 *sp* weekly, 21 weeks, thru H. W. Kastor & Sons Adv. Co., Chicago.

WQXR, New York

Charles Gulden Inc., New York (mustard), 7 *ne* weekly, 52 weeks, thru Charles W. Hoyt Co., N. Y.

Germain Monteil Cosmetiques Corp., New York (cosmetics), weekly *sp*, 52 weeks, thru Clements Co., Philadelphia.

Sheffield Farms Co., New York (Homogenized Vitamin D Milk), 62 *sa* weekly, 9 weeks, thru N. W. Ayer & Son, N. Y.

Lever Bros., Cambridge, Mass (Vimms), 63 *sa* weekly, 6 weeks, thru BBDO, New York.

10 Sponsors Are Signe For WOR's Food Seri

WHEN THE five weekly half-ho *Food Forum* shifts Sept. 28 fr WHN, New York, to WOR, Ne York [BROADCASTING, Aug. 10 ten food sponsors represented b the American Institute of Fo Products will be represented. Series will continue to be conducte by Dr. Walter Eddy, president o the Institute, and expert consultant to the Office of Quartermaster General, U. S. Army, assiste by Ella Mason, home economist Sponsors already signed for th nutritional series are: Chr. Hansen Labs., Little Falls, N. Y. (Junket); Illinois Meat Co., Chicag (Broadcast Readi-Meat); I. J Grass Noodle Co., Chicago (Mrs Grass' Noodle soup); Saratog Springs Authority, New York (geyser water); Philadelphi Dairy Products, Philadelphi (Aristocrat and Dolly Madiso ice creams); Allen V. Smith Co. Marcellus Falls, New York (Puritan Brand Split Peas); Bes Foods Inc., New York (Hellmann's Mayonnaise, Nuccoa); Kitche Charm Wax Paper, and Petal Soft Facial Tissue.

Back On the AIR

WITH the addition of 15 new accounts and the return to th air of six sponsors which had discontinued their schedules for th summer months, WNEW, New York, reports the month of August to have been one of the best 30-day periods in the history of th station. August also showed a doubling of advertising appropriations for Roma and Mission Bel Wineries, and increased advertising by three New Jersey jewelers, Abelson's, Tappins and Howard's. This, the station points out, seems to "dispel a belief in the trade that retail organizations would have to curtail advertising schedules because of priorities or other war conditions."

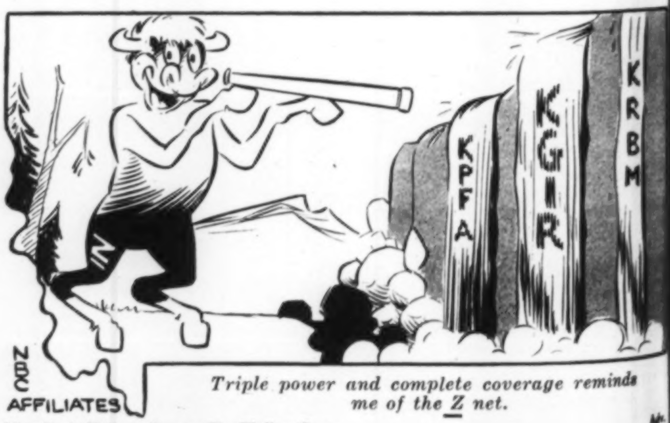
Crosier Joins Wilson

DAVID F. CROSIER for the pa two years sales manager of Muzak Transcriptions, has joined the Howard H. Wilson Co., station representatives, as head of its New York office. Mr. Crosier was formerly a salesman for World Broadcasting System, Hearst Radio and CBS, and from 1930 until 1936 was radio director of Pedlar & Ryan.

ALL THAT POWER CAN'T MEAN ANYTHING BUT PROSPERITY IN A MIGHTY BIG EXPANSION PROGRAM... RIGHT HERE IN YOUR MARKET, CAN IT, SON?
IT SURE CAN'T NOT BY A DAMSITE!...
KXL
WASHINGTON
BONNEVILLE DAM OREGON

Oregon's highest power station.

Reps.—Joseph Hershey McGillvra—10,000 Watts, 750 Kc. Adv.



Triple power and complete coverage reminds me of the Z net.

New York-Chicago Reps.—The Walker Co.

Radio Advertisers

BLOCK DRUG Co., Jersey City (proprietary), in a West Coast campaign Sept. 14 started sponsoring the thrice-weekly quarter-hour transcribed program, *Happy Johnny*, on 13 Don Lee Pacific Coast stations, Mon., Wed., Fri., 7:15-7:30 a.m. (PWT). Contract is for 26 weeks. J. Walter Thompson Co., New York, has the account.

FIRST INDUSTRIAL LOAN Co., Los Angeles (finance), following a 12-week test, on Sept. 8 renewed for 52 weeks daily participation in *Facing Facts With Hal Styles*, commentator, on KFWB, Hollywood. Agency is Robert F. Dennis Inc., Los Angeles.

STANDARD BRANDS, Montreal (Fleischmann's yeast) has started a transcribed spot announcement campaign four times daily on 38 Canadian stations. Account was placed by J. Walter Thompson Co., Montreal.

TANGLEFOOT Co., Grand Rapids (Insecticides) has appointed R. Y. Reaves, Denver agency man, as advertising manager. C. D. Truman, who preceded Mr. Reaves, has returned to Los Angeles where he will operate as advertising counsellor.

CHRISTIE-BROWN & Co., Toronto (biscuits, bread) has started *Twin Keyboards* quarter-hour noon musical program five times weekly on CFRB, Toronto. Account was placed by Cockfield Brown & Co., Toronto.

You keep customers when you

KEEP SPOTS BEFORE THEIR EARS!

• ASK A JOHN BLAIR MAN ABOUT SPOT RADIO

JOHN BLAIR & COMPANY

CHICAGO
NEW YORK
ST. LOUIS
SAN FRANCISCO
LOS ANGELES

NATIONAL RADIO STATION REPRESENTATIVES

Albert H. Morrill

ALBERT H. MORRILL, president of the Kroger Grocery and Baking Co., and of the company's affiliate, the Piggly-Wiggly Corp., died Sept. 13, two hours after suffering a heart attack at his Cincinnati home. Mr. Morrill was 67. A Cincinnati attorney since 1900, Mr. Morrill had been general counsel for the Kroger company before he became president. He was a director of the Pittsburgh, Cincinnati, Chicago & St. Louis railroad, and the Commercial National Bank and Trust Company of New York, as well as a civic leader, and former president of the National Chain Store Association.

Halverstadt Named

APPOINTMENT of Albert N. Halverstadt to the position of director of media of the advertising division of Proctor & Gamble, Cincinnati, was announced last week by William G. Werner, manager of the advertising division. Previously, Mr. Halverstadt has handled the coordination and analysis of radio time, publication, outdoor and other media recommendations of the advertising agencies placing copy for the company.

HYDE PARK BREWERIES Assn., St. Louis, will launch a half-hour variety show on KSD, St. Louis, Oct. 5, and on Oct. 10 will add two broadcasts to France Laux, sportscaster on KMOX, St. Louis. Latter program will be aired on a five-weekly basis, shifting from 10:15 to 10 p.m. *Tick Tock Time* will be the title of the KSD program, which will be heard Monday, 9:30-10 p.m., with Kay Thompson, singer, and Don McNeill as m.c. Regular feature of the show will be a sentence game contest with studio audience participating. Producer will be Walter Gorman, of Young & Rubicam, agency in charge. Gorman will be transferred from the firm's New York offices to St. Louis, to handle the show.

THE *Post-Enquirer*, Oakland, Cal. evening daily paper, has started sponsorship of *Victory Revue*, one-hour daily feature designed to appeal to shipyard workers of the McArthur Shift on KROW, Oakland, Cal. The paper announced the radio program in a shipyard special edition.

PIONEER BEVERAGE COMPANY, Oakland, Cal. (Golden Bridge beverages) has started a spot announcement campaign, using 30 spots weekly on KROW, Oakland, Cal. Agency is Ryder & Ingram, Oakland.

JORDAN-MARSH Co., Boston (department store), will present *Salute to New England Patriots* on WNAC, Boston, five nights weekly, 6:55-7 p.m., in tribute to the men and women of New England who have made outstanding contributions to the war effort. M.c. is Cedric Foster, Mutual's coast-to-coast commentator. Honored last week were Capt. Francis W. Cronan, Army; Capt. Victor D. Herbster, Navy; Capt. Bradford Perrin, Marines; Capt. Derby, Coast Guard.

VICK CHEMICAL Co., New York (Vatronol), has started sponsorship of thrice-weekly five-minute newscasts by Todd Hunter on WBBM, Chicago. Agency is Morse International, New York.

PEPSODENT Co. of Canada, Toronto (toothpaste), on Oct. 2 starts a half-hour show, *Pepsodent L'Theatre de Chez Nous* weekly on CKAC, Montreal. Account placed by Lord & Thomas of Canada, Toronto.

in the
DETROIT
AREA

at 800 kc.

YOU CAN'T MISS WITH CKLW

• With industrial employment soaring at an all-time high in the Dynamic Detroit Area,—CKLW's 5000 watt blanket coverage constitutes the greatest radio dollar buy ever offered. Investigate now! Schedule on CKLW this Fall.

5,000 Watts Day and Night
MUTUAL BROADCASTING SYSTEM

HOW TO GET THE MOST OUT OF YOUR RADIO DOLLAR IN CENTRAL NEW YORK

Pick the one Syracuse Station in four that consistently shows more audience than the other three stations combined. Does it six times a day—day-in and day-out. Pick . . .

WFBL
Syracuse, N.Y.

MEMBER OF BASIC NETWORK COLUMBIA BROADCASTING SYSTEM

FREE & PETERS, Inc. *Exclusive National Representatives*

XUM

In Salt Lake City the biggest tune-in is naturally to this exclusive NBC outlet...

KDYL

The POPULAR Station
Salt Lake City

JOHN BLAIR & COMPANY
National Representatives

UTAH'S ONLY NBC STATION

RADIO ACTIVITIES OF STATES LISTED

ONE of radio's most prolific writers, Carroll Atkinson is author of *Radio in State and Territorial Educational Departments* [Meador Pub. Co., Boston, $1.50], a new volume just released which traces the growth, rise and extent to which radio has come to be used by the various states and territories within the Union.

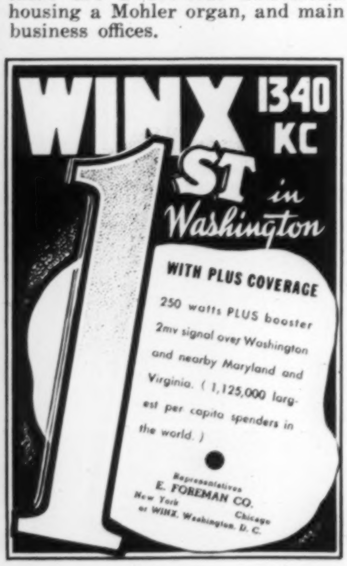
Little by little, Mr. Atkinson is compilng the complete story of education in radio and through radio adding to the growing story as told in previous volumes. Beginning in 1941, he turned out *American Universities and Colleges That Have Held Broadcast License*, which describes the struggles to maintain operation which confronted 124 American colleges first licensed. *Radio Extension Courses Broadcast For Credit* was the next volume, also appearing in 1941.

This year, there have been five including newest, already mentioned. These include *Public School Broadcasting to the Classroom, Radio Network Contributions to Education, Broadcasting to the Classroom by Universities and Colleges, Radio Programs Intended for Classroom Use, Radio in State and Territorial Education Departments.*

Studios at Spartanburg To Be Formally Opened

REPRESENTING an investment of approximately $75,000, the new studios of WSPA-WORD, Spartanburg, at Radio Center on Main St., will be occupied and formally dedicated next week, according to Walter J. Brown, vice-president and general manager. Both stations will function from Radio Center but with the facilities definitely allocated to each outlet.

Acoustical treatment was by Johns-Manville, with designing handled by C. R. Jacobs, CBS manager of construction operations, and Harold Woodward, Spartanburg architect. Second floor of the building is given over to studios for the two stations and to the business offices. On the first floor there are a 150-seat auditorium housing a Mohler organ, and main business offices.


WINX 1340 KC
1ST in Washington
WITH PLUS COVERAGE
250 watts PLUS booster 2mv signal over Washington and nearby Maryland and Virginia. (1,125,000 largest per capita spenders in the world.)
Representatives
E. FOREMAN CO.
New York Chicago
or WINX, Washington, D. C.

PRODUCTION DETAILS of the new weekly NBC *Abbott & Costello Show*, which starts Oct. 8 under sponsorship of R. J. Reynolds Tobacco Co. (Camel cigarettes), were ironed out by these New York and Hollywood radio executives. Showmakers (l to r) are William Moore and Richard Marvin, West Coast manager and New York radio director, respectively, of William Esty & Co., agency servicing the tobacco account, and Hal Hackett, New York radio director of Music Corp. of America. Hackett and Marvin were on the West Coast for over two weeks to complete details.

Ballantine Campaign

P. BALLANTINE & Sons, Newark (beer), is understood to be lining up its fall and winter campaign using a spot campaign of half-hour musical programs in selected areas. To avoid transcription difficulties with the American Federation of Musicians, the company will probably arrange to have music provided by station staff orchestras or recorded libraries, and will incorporate special program ideas in shows put together by the individual stations. Although the campaign is scheduled to start in October, no details are forthcoming from J. Walter Thompson Co., New York, Agency in Charge.

Lane Bryant on 20

LANE BRYANT, Indianapolis (women's apparel, mailorder division), has placed a varied schedule of one-minute announcements, local programs, and participating announcements during the last two weeks of September, promoting its fall and winter mail order catalog on the following stations: WLS WSM WLW KDTH KFAB KFEQ KGGF KMA KMMJ KOAM KSAL KWTO WDZ WIBW WMMN WNAX WSAZ WSBA WWVA. Agency is E. H. Brown Adv. Agency, Chicago.

NBC News Setup In War Revision

Menser Appoints McCall as Successor to Schechter

REALIGNING the NBC news and special events staff following the recent resignation of A. A. Schechter, as manager, to join the Office of War Information in Washington and the granting of a leave of absence to Arthur S. Feldman to go to England on an important war assignment for the BBC, C. L. Menser, vice-president in charge of programs, has appointed Francis C. McCall as acting manager of the department, Adolph J. Schneider is assistant manager for news and Lathrop Mack assistant manager for special events.

McCall was assistant to the manager prior to Schechter's departure and since that time has been active head of the department, with which duties he will continue until a permanent successor to Schechter has been appointed. Joining NBC as a writer in the news department in 1936, after a newspaper career with United Press and the New York bureaus of the Australian Associated Press and the *Chicago Tribune*, McCall was named news editor of NBC last year.

Schneider entered radio as supervisor of facsimile broadcasting for WHO, Des Moines, in 1937, after 10 years on the *Omaha World Herald* which he joined as a reporter and left as night city editor. In 1938 he joined NBC as a news writer. In his new post he will direct the preparation of scripts for NBC's news broadcasts, entailing a supervisory editorship over reports received from AP, UP and INS as well as those of the network's 40 war reporters.

Mack is also a former newspaperman, who served AP for nine years in its bureaus at Cleveland, Columbus, Cincinnati, Springfield and New York, the last two years as sports editor for the State of Ohio. In 1936 he joined Music Corp. of America to handle band exploitation and in 1938 came to NBC as a writer in the news department. His new job entails supervision of NBC's special events broadcasts.

KVOO Ad Contests

KVOO, Tulsa, has offered $50 to the member of one of the five nearby Ad Clubs in the 10th District, Advertising Federation of America, who submits "American Industry's Best Wartime Advertisement." Bruce Barton, president of BBDO is sole final judge of the contest which closes Oct. 10.

KOB ALBUQUERQUE
50,000-25,000 Watts • 770 KC
NBC and BLUE Network Programs
Ask your Agency to ask the Colonel!
FREE & PETERS, Inc., National Representatives

Issuance of Amateur Licenses Halted By FCC Due to Supervisory Problems

ISSUANCE of new, renewal, and modified amateur station licenses has been suspended under Order No. 87-B of the FCC, released last week, and will not be resumed until further notice from the Commission. Administrative problems resulting from the war were blamed for the decision.

The Commission declared that with many license holders in military service, and others engaged in war industries in various parts of the country, it was impossible for licensees to exercise proper control over transmitting apparatus, and the premises on which it was located.

Dec. 8 Order

Commission Orders No. 87 and 87-A, adopted Dec. 8, 1941 and Jan. 8, 1942 required cessation of amateur operations in interest of national security. When the orders were issued immediately following the Japanese attack on Pearl Harbor, the American Relay Radio League reported the 50,000 amateur stations were cleared from the air in 20 minutes.

Since the stations were silenced, the Commission has renewed and modified existing amateur licenses in view of possible use of such stations for civilian defense. The establishment of the War Emergency Radio Service, however, provided civilian defense and state guard services with the desired emergency communications equipment.

Operator's Licenses Issued

The Commission will continue its policy in issuing new or renewed amateur operator licenses, or modifications of licenses for change of operator privileges. Holders of amateur operator licenses desiring to maintain their status should submit applications for amateur operator and amateur station license renewals in accordance with the Rules.

Amateur station licenses which were valid when Order No. 87-B was issued last week, and are not revoked prior to their expiration, will once more be granted appropriate amateur authorization when stations are again allowed to operate, provided the owners maintain valid amateur operator licenses. As far as possible, call letters of present stations will be reserved for assignment to the present holder when licensing of amateur stations is resumed.

Chain Adds Spots

FORMAN & CLARK, Los Angeles (men's clothing chain), supplementing its six-weekly quarter-hour early morning newscasts on KFI, that city; KGO, San Francisco; KJR, Seattle; WHB, Kansas City, on Sept. 10 started for three months a fall campaign using spot announcement on various stations in each market. Agency is Botsford Constantine & Gardner, Los Angeles.

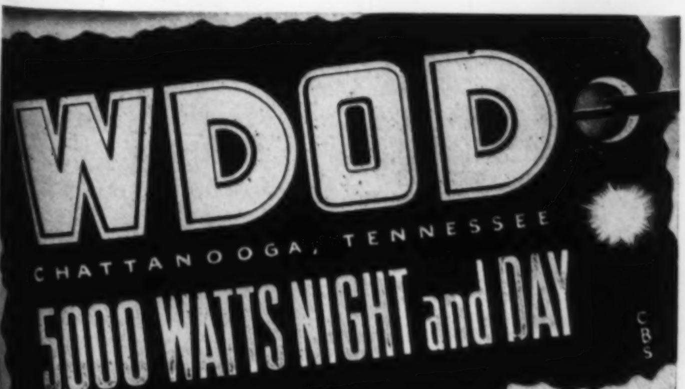
Recruiting Drive

CHICAGO NAVAL AVIATION Selection Board in a recruiting drive in the Ninth Naval District is using Sonovox donated announcements in which the actual recorded effect of the roaring motors of a PBY bomber articulate the words, "Slap a Jap . . . Fly Navy", and a full orchestra sings, "Win your Navy Wings of Gold."

Sendoff for Swing

JOHN GUNTHER author and BLUE commentator, will present a 10-minute personalized story of the life of his friend and fellow commentator Raymond Gram Swing in a special BLUE broadcast Sept. 26. Titled *My Friend, Raymond Gram Swing*, the biography will be a sendoff for Swing's new series on BLUE starting Sept. 28, under sponsorship of Socony-Vacuum Oil Co. Agency for the series is J. Stirling Getchell, Inc., N. Y.

GENERAL FOODS Corp., New York, for the sixth consecutive year, will sponsor Molly Picon's *Theatre of the Air*, weekly Jewish program on WHN, New York. Heard in the interests of Maxwell House Coffee and Diamond Crystal Salt, the series will start Oct. 6 in the Tuesday 8-8:30 p.m. period. Agency is Benton & Bowles, New York.



My-T-Fine in Fall

PENICK & FORD, New York, on Sept. 14 launched its annual fall campaign for My-T-Fine desserts on 27 stations, using one-minute transcribed daytime announcements on a five-weekly basis on all but two outlets. On WABC and WQXR, New York, company has started five-minute transcribed evening programs. Campaign will run till the end of December and is on a similar scale to last year's drive. Agency is BBDO, New York.

WALLACE WEST, of the NBC news and special events department is the author of an elementary school text based on the network's NBC *Good Neighbor* series. Titled *Our Good Neighbors in Latin America*, the book will be published Oct. 1 by Noble & Noble, New York.

NEWS FOR SOLDIERS
WROK Supplies Camp With Official Bulletin

SOLDIERS of Camp Grant receive an official news bulletin daily which is supplied by WROK, Rockford, Ill., from the 8:45 a.m. news summary of Bill Traum, the station's news and promotion director. On the news sheet is a schedule of WROK newscasts, sports broadcasts and musical shows of interest to the soldiers.

Every morning a camp messenger rushes the news sheet to the public relations office where it is mimeographed and added to Camp Grant's official bulletin for the day. By noon the bulletin is in the hands of all officers and posted in all barracks.

It's
WTCN
IN THE TWIN CITIES

St. Paul and
Minneapolis
with
Population Over
800,000

2
MARKETS
FOR THE PRICE
OF ONE

Most
Popular
With
Listeners

Best for
Advertisers

Write for
Details of
Programs and
Time Available,
Rates, Market
Data and
Information on
Merchandising
Service

FREE & PETERS, Inc.
New York Chicago.
NATIONAL REPRESENTATIVES
Detroit Atlanta Los Angeles San Francisco

WBNX

CREATING

Amicizia
Freindshaft
Przyjazn
Amistad
Freundschaft

FRIENDSHIP is spelled differently in every language but 5,000,000* listeners in greater New York have learned to identify WBNX as the FRIENDLY VOICE of their own tongue. All of which adds up to proven sales satisfaction for national and regional advertisers in the world's richest market. For effective yet economical coverage of metropolitan New York, WBNX is an outstanding value.

Over 70% of New York's population is foreign born or of foreign parentage.

Winner of the PEABODY CITATION for Public Service to Foreign Language Groups.

WBNX
5000 Watts
New York City

FOR OFFENSE
FOR DEFENSE Buy U.S. Bonds Today

KOA-WHDH Decision

(*Continued from page 34*)

of the Act is that no person is to have "anything in the nature of a property right as a result of the granting of a license." But the opinion in that case also recognizes that station licensees may be financially injured by the issue of a license to a competing station. The language first quoted must be read in connection with the opinion as a whole and in connection with the utterances of the Supreme Court in *Federal Communications Commission* v. *Pottsville Broadcasting Co.,* 309 U. S. 134 (1940), and *Radio Commission* v. *Nelson Bros. Co.,* 289 U. S. 266 (1933). In the *Pottsville* case the Court said: "To be sure the laws under which these [administrative] agencies operate prescribe the fundamentals of fair play. They require that interested parties be afforded an opportunity for hearing."

In the *Nelson Bros.* case the Court said: "Whether the Commission applies the legislative standards validly set up, whether it acts within the authority conferred or goes beyond it, whether its proceedings satisfy the pertinent demands of due process, whether, in short, there is compliance with the legal requirements which fix the province of the Commission and govern its action, are appropriate questions for judicial decision."

Station License A Property Right

In view of the *Pottsville* and *Nelson Bros.* cases, and in view of the provisions of the Communications Act which recognize rights, limited in time and quality by the terms of the licenses issued, in station licensees (see especially §§ 301, 309 (b) (1), (2), 319 (b)), I think it clear that a station license issued under the Communications Act for a definite term for the conduct of a broadcasting business requiring substantial investment is more than a mere privilege or gratuity.

Whether or not it may be technically called a property right, it is a thing of value to the person to whom it is issued and a business conducted under it may be the subject of injury. I think the Supreme Court in the *Sanders* case in its reference to the absence of "anything in the nature of a property right as a result of the granting of a license" was using the term property right in the sense of a right absolute or indefeasible. It is clear of course that under the Communications Act a station licensee's rights are subject to modification, or even to revocation, in the public interest. But I do not think the *Sanders* decision was intended to be taken as meaning that no right even of a limited and defeasible nature exists in a licensee. Nor do I think that the decision was intended to mean that an existing broadcasting station and the investment therein may be injured or destroyed by the introduction of competition or through the extension or modification of the facilities of other licensees *without a hearing before the Commission on the question whether the public interest, convenience and necessity will be served by such injury or destruction.*

Even if the Communications Act were doubtful in its recognition of the existence of rights in licensees and in its provision for hearings upon the question whether the public interest requires the reduction or destruction of such rights, I think it would be the duty of the courts to construe the Act as recognizing such rights and providing for such hearings—and this for two reasons.

First, in the absence of indubitably clear language requiring such a conclusion, it would be unthinkable to conclude that the Congress would provide for the granting of station licenses for radio broadcasting contemplating, in connection with operating a station, investment in building space and equipment, the hiring of talent, the contracting for advertising, and the employment of labor, but at the same time fail to recognize that by whatever technical name they might be called, whether property rights or license rights, interests would arise, in the persons to whom licenses were granted, which should as a matter of fair play not be impaired or destroyed by the Communications Commission without a hearing upon the question whether the public interest would be served by their impairment or destruction.

Right to a hearing before injury by the government in the public interest is one of the fundamental decencies guaranteed by democratic institutions. It is the safeguard of the Anglo-American legal system against arbitrary or capricious action by public authorities. No purpose should be attributed to Congress to deny such a right.

Second, to construe doubtful language of Congress as permitting the impairment or destruction of a licensee's interests without a hearing would be to invalidate, under the due process clause of the Fifth Amendment, the action of Congress. That that clause protects against the arbitrary impairment or destruction of substantial rights even though they are limited by the public interest, is not open to doubt. *Cf. Northern Cedar Co.* v. *French,* 131 Wash. 394, 230 Pac. 837 (1924).

Miller Files Dissent From Majority Ruling

MR. JUSTICE MILLER dissenting: I find no substantial allegation of injury in any of appellant's reasons for appeal. Surely it is not enough, to secure standing to appeal on the basis of affectation of interest or aggrievement, that electrical interference will occur beyond that previously occurring. Surely some injury, actual or anticipated, should be the minimum requirement. And if injury has occurred or is threatened, what other test or measure of its substantiality could there be than that it is financial?

In the *Sanders* case the Supreme Court said: "Congress had some purpose in enacting § 402(b) (2). It may have been of opinion that one likely to be *financially* injured by the issue of a license would be the *only person having a sufficient interest* to bring to the attention of the appellate court errors of law in the action of the Commission in granting the license."[1] [Italics supplied] Of course, stated as it is in speculative form concerning legislative purpose, it is possible to argue that this language was not intended to say that *only* a person likely to be *financially* injured has a sufficient interest, within the meaning of Section 402 (b) (2). But I think that is exactly what the Supreme Court intended to say. As the Commission in its brief points out, the word financially, which I have italicized, was added after the opinion was first released.[2]

While intangibles such as prestige, or position, in the broadcasting world may seem valuable to a licensee, still they are unimportant—in view of that free competition which Congress intended should exist in the field of broadcasting—unless injury to them would result in financial injury. If, for example, loss of prestige should result in loss of advertising then, perhaps, a tangible injured interest would appear which would give standing to appeal. But if there is no interest, of such character, that it will reveal itself in terms of financial injury, then there is no sufficient interest to give standing to appeal.

Financial Background To Maintain Licensee

This is true even of a licensee which is operating on a nonprofit basis, a college, a church, or a benevolent institution. Financial backing is required to maintain such a licensee. If the injury threatened, endangers that financial backing then the licensee may have standing to appeal; otherwise not. Where else could the line be drawn? Would it be sufficient that a Methodist organization was aggrieved by hearing Baptist doctrine preached in the same listening area; or that one college should be disturbed by the songs and cheers of a rival institution of learning?

It is apparent in the present case, therefore, that unless electrical interference was likely to result in financial injury appellant was not an aggrieved or affected person within the meaning of the statute. And if financial injury was likely to result, the licensee could have spelled out that fact in his reasons for appeal. It imposes no undue burden upon one who seeks judicial review of the Commission's decision, to require that he specify clearly, unequivocally, precisely, the nature of his alleged injury. This appellant has failed to do.[3] Consequently, I would dismiss the appeal.

Separate Dissent Filed by Edgerton

EDGERTON, J., dissenting: I think that "person aggrieved or whose interests are adversely affected" contemplates a substantial injury as distinguished from a trifling or negligible one. I should suppose that interference *might* affect reception of KOA's signal so adversely, and over so large and important an area, as to cause substantial injury and give appellant standing to appeal, whether or not it caused financial loss. But interference is an elastic term; it may be of any degree. Some interference is minimal and practically harmless. Appellant's notice of appeal, though it alleges "substantial modification"

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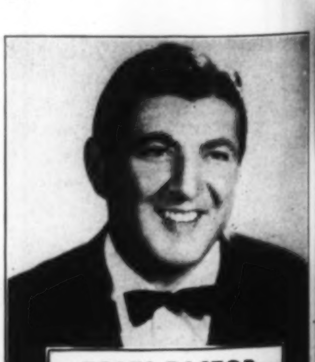
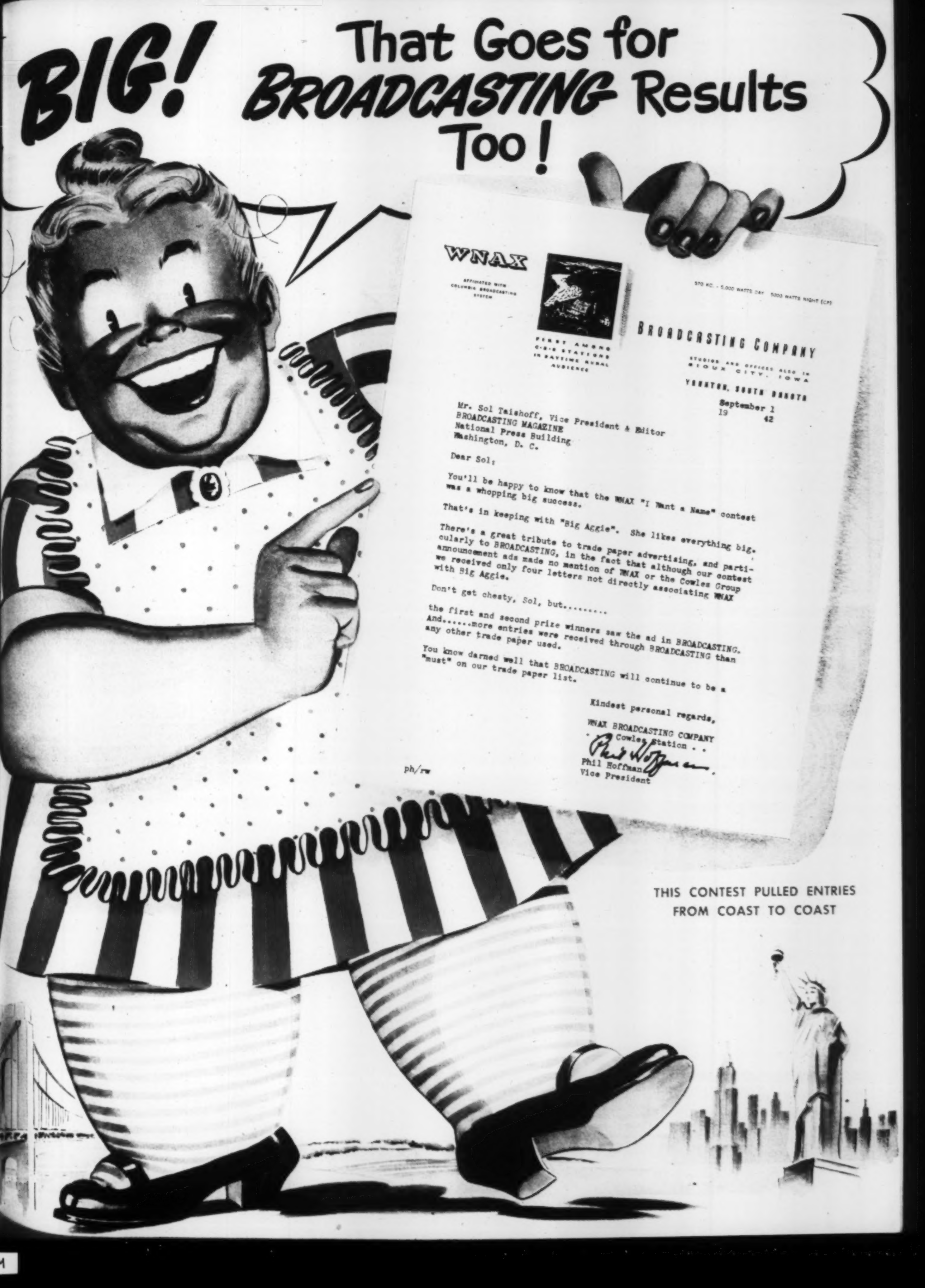
[1] Federal Communications Commission v. Sanders Brothers Radio Station, 309 U. S. 470, 477.

[2] See Federal Communications Commission v. Sanders Brothers Radio Station, 309 U. S. 642.

[3] Stuart v. Federal Communications Commission, 70 App. D. C. 265, 267, 105 F. (2d) 788, 790; Perkins v. Lukens Steel Co., 310 U. S. 113, 125: "Nor can respondents vindicate any general interest which the public may have in the construction of the Act by the Secretary and which must be left to the political process. Respondents, to have standing in court, must show an injury or threat to a particular right of their own, as distinguished from the public's interest in the administration of the law."




BIG! That Goes for BROADCASTING Results Too!

WNAX

AFFILIATED WITH
COLUMBIA BROADCASTING
SYSTEM

FIRST AMONG
C·B·S STATIONS
IN DAYTIME RURAL
AUDIENCE

570 KC. - 5,000 WATTS DAY 5000 WATTS NIGHT (CP)

BROADCASTING COMPANY

STUDIOS AND OFFICES ALSO IN
SIOUX CITY, IOWA

YANKTON, SOUTH DAKOTA

September 1
19 42

Mr. Sol Taishoff, Vice President & Editor
BROADCASTING MAGAZINE
National Press Building
Washington, D. C.

Dear Sol;

You'll be happy to know that the WNAX "I Want a Name" contest was a whopping big success.

That's in keeping with "Big Aggie". She likes everything big.

There's a great tribute to trade paper advertising, and particularly to BROADCASTING, in the fact that although our contest announcement ads made no mention of WNAX or the Cowles Group we received only four letters not directly associating WNAX with Big Aggie.

Don't get chesty, Sol, but.........

the first and second prize winners saw the ad in BROADCASTING. And......more entries were received through BROADCASTING than any other trade paper used.

You know darned well that BROADCASTING will continue to be a "must" on our trade paper list.

Kindest personal regards,

WNAX BROADCASTING COMPANY
. . Cowles Station . .
Phil Hoffman
Phil Hoffman
Vice President

ph/rw

THIS CONTEST PULLED ENTRIES FROM COAST TO COAST

WFBM
CBS
INDIANA

THE VOICE OF MISSISSIPPI
WJDX
5,000 D
1,000 N
JACKSON
N.B.C.
RED

JACKSON—"PREFERRED"

Jackson is among 123 "preferred-cities-of-the-month" for sales prospects.—Sales Management Retail Sales Forecast for Oct. 31st.

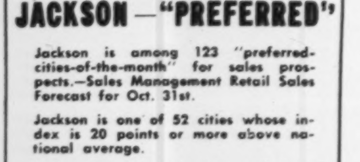
Jackson is one of 52 cities whose index is 20 points or more above national average.

Jackson's sales gain is equalled or exceeded by only 11 cities in the South.

Invest your advertising dollars with WJDX—dominant radio station in the growing Mississippi market.

Member of Southcentral Quality Network

WJDX - WMC - WSMB - KARK
KWKH - KTBS


Owned and Operated By
LAMAR
LIFE INSURANCE
COMPANY
JACKSON, MISSISSIPPI

WJZ DISC SHOW
Band Series for Sponsorship In Segments Is Begun

INNOVATION started last week on WJZ, New York, is the *Blue Band Stand*, program of recorded popular music featuring the country's top bands, with Allen Stuart as m.c. and producer. The series is heard five-weekly 11:30 a.m. to 12:15 p.m., with the first half-hour available for sponsorship as a single segment or in two quarter-hour segments.

The remaining quarter-hour is available to sponsors in five-minute segments or for one-minute announcements. Stuart, formerly an announcer for WNEW, New York, has been in radio nine years as announcer, producer and director, and most recently has been announcing the *Manhattan at Midnight* show, sponsored on BLUE by Cummer Products for Energine.

WPDQ Begins Oct. 15; Two Executives Name

APPOINTMENT of Cy Newman as program director of WPDQ, Jacksonville, and of Mrs. Marjorie Brewton Willis as director of women's features has been announced by Robert R. Feagin, manager of the station, which is expected to begin operations about Oct. 15. WPDQ will operate with 5,000 watts on 1270 kc.

Mr. Newman, who will also handle all sportscasts for WPDQ, has previously been with CBS; WOR, WMCA and WHN, New York; WAAT, Jersey City, and WITH, Baltimore. Mrs. Willis, whose duties will include broadcasting a daily women's hour, was formerly manager, treasurer and director of WTOC, Savannah.

WHK Joins Mutual

WHK, Cleveland, will celebrate fulltime affiliation with MBS by presenting a 45-minute variety show, *WHK Goes Mutual*, Sept. 28, 9:15-10 p.m. Attilio Baggiore, graduate of the Royal Opera of Rome, veteran of the European concert stage and more recently with the Chicago Civic Opera and Mutual network, will sing. Others on the program will be Elvera Ruppel, soprano of WGR, Buffalo; Joe Gentile and Ralph Binge of CKLW, Detroit; Marvin Arnold; Lillian Sherman; Dick O'Heren; Willard and his Orchestra; Sheelah Carter.

of its license, alleges neither substantial injury nor any facts which constitute substantial injury.

It alleges nothing more injurious than "interference to KOA in areas where KOA's signal is now interference free." This allegation would be supported if it were shown that in some small area, thousands of miles from Denver, and of no actual or potential importance to appellant, a few listeners could and did at rare intervals get, without interference, a feeble signal from KOA, and that their reception of that signal would be made a little worse by WHDH's modification.

I think such an allegation would not show standing to appeal. Since appellant's actual allegation may mean no more, we can accept it as showing standing to appeal only if we waive the rule that pleadings are to be construed against the pleader.

If we take that step, I think we should affirm. I find nothing in the Communications Act which required the Commission to give appellant a hearing; quite the contrary. Yet the Commission gave appellant a hearing. It violated neither the Act nor due process.

The Commission was asked to and did modify the license of WHDH. Sec. 309 (a) of the Communications Act provides in effect that the Commission may grant, though it may not deny, an application for modification without a hearing. Most modifications of licenses affect other licensees, and Congress might easily have required that other licensees who stand to lose be given a hearing. It did not. So far as the Act is concerned, therefore, no hearing was necessary. True, Sec. 303 (f) requires that the licensee of a station be given a hearing if the Commission is to change that station's "frequencies, authorized power, or . . . times of operation."

But that section is not applicable here, since, neither the frequency, the power, nor the time of KOA, appellant's station, is being changed. Similarly, Sec. 312 (b) forbids "modification" of a license without opportunity to the licensee to show cause why the license should not be modified; but that section is not applicable, since appellant's license is not being modified in any particular.[1]

Its license merely authorized it to operate with specified equipment, frequency, power, and time, and still authorizes it to operate with the same equipment, frequency, power, and time. To say that appellant's frequency or its license is being "changed" or "modified" seems to me an inapposite figure of speech. It is true that the Commission's rules, until they were changed in the course of these proceedings, stated that only one Class I station "will be assigned" to the frequency of 850 kilocycles. But that statement of the Commission's purpose or policy was not incorporated, or referred to, in appellant's license.

Therefore the license cannot, unless by a most liberal construction, be regarded as intended to make any exclusive grant to appellant, whether of equipment, frequency, power, or time. Appellant's license is no more exclusive in respect to frequency, power, and time than in respect to equipment.

And the settled rule requires not a liberal but a strict construction of franchises and licenses.[2] Moreover, Section 301 of the Act provides that "no . . . license shall be construed to create any right, beyond the terms, conditions, and periods of the license," and the Supreme Court has said: "The policy of the Act is clear that no person is to have anything in the nature of a property right as a result of the granting of a license. Licenses are limited to a maximum of three years' duration, may be revoked, and need not be renewed. Thus the channels presently occupied remain free for new assignment to another licensee in the interest of the listening public."[3]

The Constitution does not, in my opinion, give appellant a right to a full hearing, of the trial type, in the proceedings before the Commission. In the absence of statute, licensing authorities are usually under no duty to give any sort of hearing to license holders before changing rules which affect the value of licenses.[4] Appellant's case is somewhat similar to that of a licensed automobile operator who should demand that he be given a hearing before the speed limits are reduced.

Finds Administrative Process Cramped

It is stronger in one respect; for appellant is, and the particular automobile operator is not, more likely than anyone else to be affected by the change proposed. But it is weaker in another respect; for appellant is not, and the automobile operator is, forbidden to do after the change what he was free to do before the change. Only the consequences of appellant's activities, and not the activities themselves, are affected by the change which the Commission has made in the license of WHDH.

Appellant is in substantially the same position as the owner of a licensed garage or liquor store who is subjected to new competition by the licensing of a similar business nearer his own than would have been possible under the regulations which were in force when his own license was issued.

It may be that appellant was, as a matter of due process, entitled to some sort of hearing. The Commission's proceedings had a fact-finding aspect, and were more likely to affect appellant's interests than those of any other person. But appellant was not entitled to a hearing which should include "the incidents of a trial in court."[5] Persons may be "heard" without being "permitted to intervene, and thus become parties."[6] Appellant was entitled to no more than a hearing reasonably adequate to protect its interests and reasonably practicable for the Commission and the public; in other words, to a fair opportunity to bring its facts and arguments to the Commission's attention.[7]

It had such a hearing—whether of right or of grace we need not inquire. Pursuant to the Commission's Rule 1.195, it was given an opportunity to appear and present evidence. It chose not to do so. It was permitted to, and did, file a brief and make oral argument. Nothing more was required. It was not formally a party, and some aspects of a trial at law, including opportunity for cross-examination, may have been absent.

To rule, as the majority of the court in effect do, that the Commission's action was therefore erroneous, is to cramp the administrative process by forcing it into the very mold which it is designed to avoid.[8] Since the Commission had to decide primarily a question of policy and only incidentally a question of fact, the technique of a trial would have been clumsy and wasteful.[9]

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[1] Sec. 303, including (f), deals in a summary way with the "powers and duties of Commission." Sec. 312, including (b), deals in a detailed way with "revocation and modification" of licenses and with "notice and hearing."

[2] *Detroit United Railway* v. *City of Detroit*, 229 U. S. 39; *Piedmont Power & Light Co.* v. *Town of Graham*, 253 U. S. 193.

[3] *Federal Communications Commission* v. *Sanders Bros. Radio Station*, 309 U. S. 470, 475.

[4] *Cf. Lacquer & Chemical Corp.* v. *Mills*, 22 F. 2d 697 (D. C. E. D. N. Y.); *affirmed*, 22 F. 2d 700 (C. C. A. 2); *certiorari denied*, 276 U. S. 617.

[5] *Norwegian Nitrogen Products Co.* v. *United States*, 288 U. S. 294, 316, 317.

[6] *The Chicago Junction Case*, 264, U. S. 258, 268, "The 'hearing' is the hearing of evidence and argument." *Morgan* v. *United States*, 298, U. S. 468, 480.

[7] When an importer has contested the valuation of his goods by the customs service, and exercises his right to have them valued by appraisers, the question "is not to be tried before the appraisers as if it were an issue in a suit in a judicial tribunal." *Auffmordt* v. *Hedden*, 137 U. S. 310, 323. If he "is afforded such notice and hearing as enables him to give his views and make his contention in respect of the value of his goods, he cannot complain." *Origet* v. *Hedden*, 155 U. S. 228, 238.

[8] *Cf. Federal Communications Commission* v. *Pottsville Broadcasting Co.*, 309 U. S. 134.

[9] *Cf. Davis, The Requirement of Opportunity to be Heard in the Administrative Process*, 51 Yale L. J. 1093, 1098.

Appellant could have had a hearing of the trial type if it had chosen to comply with the Commission's rule regarding petitions to intervene.

UL-O-PEP RETURNS WITH SPOT SERIES

UAKER OATS Co., Chicago (Ful-O-Pep feeds), on Oct. 3 will resume transcriptions of *Man on the Farm*, weekly half-hour live program on WLS, Chicago, on the following stations: WAPI KOA WJAX WIOD WSB WHO WWL WCCO WDAF KMOX WOR WSLB WSYR WTRY WBT WLW WOO KGNC KDKA WMC WSM WFAA-WBAP WOAI WSVA WRVA. The following stations will be added making a total of 45 carrying the program; KARK WRUF WFLA WDZ KMA WIBW WHAS KWKH WBAL WBZ WJR WOW WSNJ WHAM WKY WIS WNOX KFDM KPRC.

Program, which on Sept. 19 was renewed for the sixth year on WLS, consists of interviews of visitors to the Quaker Oats experimental farm 45 miles from Chicago, by Chuck Acree, m. c., and brief talks by Dr. O. B. Kent, director of research for Ful-O-Pep feeds.

The company on Sept. 26 will resume *Our City Cousins*, weekly quarter-hour live talent program on WLS, Chicago, consisting of interviews by Chuck Acree with city folk on their impressions of farm life. Interviewees are selected from the early arrivals at the Saturday evening *National Barn Dance* in the Chicago Civic Opera building. Agency is Sherman & Marquette, Chicago.

N. Y. Club to Meet

FIRST luncheon meeting for the 1942-43 season of the Radio Executives Club of New York will be held Oct. 7 at the Hotel Lexington, it has been announced by Thomas H. Lynch, radio timebuyer of Wm. Esty & Co., New York, and president of the club for the coming year. Out-of-town station or agency men in New York on Wednesdays are invited to attend the meetings as in past years.

Warfield Counsel

WILLIAM S. WARFIELD III, Chicago attorney of the firm of Cassels, Potter & Bentley, has been retained by CBS as counsel in the anti-trust suit against the network instituted by the Dept. of Justice. Cases against both RCA-NBC and CBS have been set for trial Dec. 11 in the Federal Court in Chicago before Judge John P. Barnes [BROADCASTING, Sept. 14].

FIRST MANAGEMENT meeting of executives and department heads of the BLUE held since its inception as a separate organization in February of this year consisted mainly of a roundtable discussion of problems of programming, engineering and other phases of broadcasting operations affected by the war. Attending the meeting, and ensuing luncheon and dinner, were (seated, l to r):

Kenneth Berkeley, Washington manager of the BLUE; John McNeil, manager of WJZ, BLUE key station in New York; Keith Kiggins, vice-president in charge of stations; Phillips Carlin, vice-president in charge of programs; Edgar Kobak, executive vice-president; Mark Woods, president; Don Gilman, vice-president in charge of the West Coast Division; William Ryan, manager of KGO, BLUE outlet in San Francisco, and E. R. Boroff, vice-president in charge of the central division.

Standing: James Stirton, central division program manager; Robert Swezey, secretary and legal counsel; H. B. Summers, public service manager; G. W. Johnstone, director of news and special features; Charles Barry, Eastern program manager; Alexander Nicol, controller; Earl Mullin, publicity manager; Robert Saudek, assistant to the executive vice-president; Dorothy Kemble, continuity acceptance editor; George Milne, chief engineer; Charles E. Rynd, treasurer; John H. Norton, station relations manager; George Benson, Eastern sales manager; Bert J. Hauser, sales promotion manager; E. C. Horstman, Chicago engineering manager; Edward Evans, research head; Fred T. Thrower, general sales chief.

NBC's Fall Parade

BECAUSE of the enthusiasm expressed by advertising agencies, sponsors and stars for NBC's *Fall Parade of Stars*, comprising promotional previews of coming fall programs, the original 10 transcriptions have been increased to 21. Radio's contribution to the war effort and the building of national morale is the keynote of the editorial matter and scripts, which provide a total of 10 hours of entertainment, especially contributed for the purpose, by top-ranking NBC artists [BROADCASTING, Aug. 10].

Dover Beer Spots

DOVER BREWERIES, Hartford, Conn., through its newly-appointed agency, H. A. Salzman Inc., New York, has launched a series of one-minute transcribed announcements for an indefinite period on New England Stations. Firm, a newcomer to radio, started the spots in August on one station each in New Britain, Hartford, and Waterbury, Conn., and in Springfield, Mass. on the basis of 40 a week.

Guider Joins the Navy As Lieut. Commander

JOHN W. GUIDER, member of the law firm of Hogan & Hartson, and a pioneer in the practice of radio law, last Monday was called to active duty in the Navy as a lieutenant commander, Bureau of Supplies and Accounts. He follows into service his partner, Lt. Com. Duke M. Patrick, now at Cornell for an indoctrination course.

Mr. Guider

Com. Guider is a Naval Academy graduate, class of 1922. He has been a member of the Hogan firm for the past decade. Radio practice of the Hogan firm is being handled by Karl A. Smith and Lester Cohen, associates of Messrs. Guider and Patrick.

WIL's Contribution

BART SLATTERY, for nine years announcer and publicity director of WIL, St. Louis, who conducts WIL's *Breakfast Club*, has been commissioned a lieutenant, junior grade, in the Naval Reserve. He is doing personnel work for Naval aviation in the St. Louis area. Bill Durney, sports announcer of WIL, has been commissioned second lieutenant in the Marine Corps Reserve. Lt. Durney has announced ice hockey and football as well as other remote pickups for the past seven years, and is a familiar voice to thousands of St. Louisians.

V. LA ROSA & SONS Inc., Brooklyn, distributors of La Rosa Grade A Macaroni, and Andre Luotto, advertising agency, have stipulated with the FTC to cease certain advertising claims for the product.

ANSWERS
to WOR-Quiz on front cover

1. The formation represents the WOR Guaranteed Area. It contains 14 of the most active war work cities in the United States. Radio listening in the most densely-populated portion of this area has jumped 10 to 20% over the same period last year.

2. The symbol is used to point up the fact that 14 major Eastern markets of more than 100,000 people each can be covered by WOR alone.

3. These are the initials of "Bessie Beatty", famous WOR woman's show conductor, who opened up 50% more outlets for a well-known substitute product in 8 weeks. The new dealers are located in New Jersey, Connecticut, Rhode Island, Long Island and Pennsylvania.

4. This insignia appears on the cards of all "The 8-Ball Club" members. Club is idea of Jerry Lawrence, popular all-night show m.c. on WOR. The "8-Ball Club" has members in approximately 37 states. Each member is one of WOR's thousands of all-night listeners.

WOWO
FORT WAYNE

Just 5 minutes, 3 times weekly for 6 weeks. Response? — 5205 Kitchen Klenzer labels!

Result of WDZ's

"DIRECTIONAL PROGRAMMING"

Aimed EXCLUSIVELY at the 70% who work with their Hands

QUICKLY DIRECTLY RESPONSIVE

WDZ
TUSCOLA
ILLINOIS
1000 WATTS

Quick Response — when you talk to PEOPLE (not population figures) through the "salt of the earth" appeal of WDZ. If you want to KNOW your package, "deal" or plan is RIGHT for the "70% masses" HERE'S THE PLACE TO FIND OUT—at mighty little cost!

HOWARD H. WILSON CO. - Representatives
New York, Chicago, Kansas City, San Francisco

206,154 Listener Letters During 1941!!

buy MAINE Strength
WGAN

COVERING Portland and Maine's major markets . . . a consumer market which has mushroomed in size and is steadily growing . . . where DOLLARS are being spent.

5000 WATTS—560 KC
CBS
National Representatives
PAUL H. RAYMER CO.

In Maine they tune in
WGAN PORTLAND

Musicians Local in New York Endorses Petrillo's Disc Action

Confidence in Union President's Policy Voiced; Rochester Symphony Cancels Its Concerts

MEMBERSHIP of the New York local (802) of the American Federation of Musicians has unanimously endorsed the fight of James C. Petrillo, national president of AFM, against recorded music, it was announced last week by William Feinburg, secretary of the local, following a meeting on Monday attended by about 1,000 members of 802.

Resolution adopted at the meeting is a duplicate of that adopted a month earlier by the local's executive board. After citing at some length the adverse effects of "mechanical and canned music" upon the employment of live musicians, the resolution expresses "fullest confidence" in Petrillo and the AFM international executive board and pledges the local to "exert every effort to carry out" the decision that AFM members shall cease making records and transcriptions.

AFM Explanation

This decision, the resolution states, "was made in the hope and for the purpose of inducing the recording companies and radio broadcasters to negotiate and agree upon a plan under which not only they may continue to function and prosper, but which would also provide employment opportunities for greater numbers of our fellow members."

802 also last week ran two-column, 13-inch ads in a number of New York newspapers to explain "the plight of the professional musician and why he is opposed to the uncontrolled distribution of the records his talents create." Following this headline, the copy states that only 35% of the approximately 138,000 AFM members are now employed; that 95% of the music heard today in the U. S. and Canada is "canned"; that more than 500 stations in the U. S. "do not employ one single living musician" and that "an average of only seven minutes of each 24 hours of radio time is given to live music."

Rochester Ban

"Hundreds of millions in advertising income is received by these radio stations from the sale of 'canned music' to commercial programs," the ad continues. "This huge total is derived from the records which the professional musicians create. But the total income received by the musicians who make this profitable radio industry possible approximates an insignificant fraction of this total. As the number of stations increases, the employment of living musicians in the field is actually decreasing."

Asking: "Is it not fair and just that the recording and radio industry, earning big financial rewards from the talent and skill of the musician, should sustain the obligation of affording him, by some compromise, the opportunity to maintain a decent standard of living—so that music may survive?", the copy goes on to declare: "Yet not one recording or transcription company has approached our Federation with any suggestions to meet the problem. Instead they have seemingly combined with the radio stations and advertising interests to influence Washington to fight their battles for them."

The copy concludes: "These are the facts. And we are confident that you, the public, will sympathize with our position, and our plight."

NAB's Statement

The NAB promptly sent to newspaper editors an analysis of these "facts" as background material for stories that may be written on the recording ban in the future. This analysis points out, for example, that network programs consume more than half the time of more than half the stations, and that not one of these network programs is recorded, which even without the performance of individual station staff musicians amounts to considerably more than seven minutes for each 24 hours.

Similarly the NAB digest states that the total radio advertising revenue from all non-network programs, including live programs and announcements and non-musical as well as musical transcriptions, is less than $100,000,000 and not the "hundreds of millions" for "canned music" alone claimed by the union. Even regarding AFM membership, the analysis quotes J. M. Weber, former AFM president, as stating in 1940 that "our membership consist of fully half of non-professionals who are not entirely dependent on music for a livelihood."

Regarding the AFM question: "Is not the musician, then, justified in saying: I will make no more records until and unless honest negotiation provides a solution by which the public may continue to enjoy the product of our time and labor, and I may continue to work and earn a living?" the NAB replies:

"No musician ever said this. Mr. Petrillo merely said, from and after Aug. 1 no members of the AFM will work in making records. He said this unconditionally, and without prior consultation with representatives of industry or of the public. All that remains to be said is to ask a difficult question. That question is 'for instance, What kind of a solution is the AFM talking about? It has not said. It says it wants the record companies to control the use of records. The record companies cannot legally do this. Moreover, what musician is the union talking about? Does it really mean that phonograph records cannot be made in New York unless part-time musicians in Idaho, for instance, who cannot meet the public taste, are given forced employment?"

Petillo's Lobbying

In response to the AFM suggestion for "some equitable legislation as now exists in England," the NAB replies: "If the only way in which this situation can be remedied is by legislation, what new form of legislative lobbying is Mr.

CHOSEN FROM SEVEN competitors, Katherine Donaldson, winner of the "Miss WEAF" contest staged by WEAF, New York, on its 20th anniversary, poses for the first of what will doubtless be a large file of publicity photographs. A resident of New York City, Miss WEAF has played in summer stock, has modeled and this summer was one of the junior hostesses at the Stage Door Canteen. WEAF will help her further her dramatic ambitions in addition to giving her an evening "around the town" in a Saks Fifth Ave. evening outfit.

WEVD

NEW YORK'S STATION OF DISTINCTIVE FEATURES

NOW 5000 WATTS

The unique position of WEVD with a large section of Metropolitan New York's radio audience is evidenced by—

(1). The feature boxes of newspaper radio program pages

(2.) The large number of famous advertisers on the station continuously year after year.

Ask for "Who's Who On WEVD" . . . sent on request.

WEVD

117-119 West 46th St., New York, N. Y.

llo engaged in banning the g of records.

the record companies can do g under existing law and Petrillo has to get new legis-, why strike against whole ries and the American peo- cause the law is in its pres- state. If Mr. Petrillo had to Congress for legisla- instead of issuing his peremp- order, he would not have n upon himself the present ral criticism."

nwhile, another musical edu- al institution has had its ts banned from the air be- of the Petrillo ukase that union musicians shall be al- to broadcast. The symphony tra of the Eastman School sic at Rochester, N. Y., has lled its scheduled series of casts on CBS, which were to begun early in November and have continued throughout the ter from 3:30 to 4 each Thurs- afternoon. Like the cancella- of the CBS broadcasts of the cinnati Conservatory of Music week earlier [BROADCASTING, t. 14], the Eastman series was ted because of its conflict with policies of Petrillo.

It was learned, however, that S is planning to broadcast a lf-hour afternoon series of con- ts given by the Eastman Orches- . Dr. Howard Hanson, director the school, explained that such adcasts would be permitted be- se this group's members are so members of the AFM. He pro- sed that the matter of student adcasts might be settled by an reement between the union and e broadcasters which allow a ited number of broadcasts by dent orchestras.

Some 40 members of the faculty f Oberlin College and Conserva- ry, Oberlin, O., issued a stinging buke to Petrillo and the AFM Sept. 17, calling upon 15 of the ation's music schools to fight the nion's ban on student musical broadcasts.

SERIAL SELECTED FOR LATIN DISCS

BECAUSE it was the "best example of good, solid American radio in the serial form," *Bachelor's Children*, has been chosen by the Planning Board of the Office of the Coordinator of Inter-American Affairs for broadcast via transcriptions on South American radio stations. Of all programs being recorded in Spanish and shipped to South America for broadcast, *Bachelor's Children* is the only one representing the daytime serial field.

Program is broadcast domestically on NBC for Colgate-Palmolive-Peet, but shifts to CBS for Continental Baking Co. for Wonder Bread and Hostess Cake on a five-weekly basis starting Sept. 28. Ward Wheelock Co., Philadelphia, has been the agency for the show for Palmolive soap, and Ted Bates Inc., New York, will handle the serial for Continental.

Cooper Blade Drive

COOPER SAFETY RAZOR Corp., Brooklyn, which entered radio in the early part of the year with a test campaign on WNEW, New York, will use stations in major eastern and midwestern markets in a drive to encourage shavers to conserve steel by using high-quality, long-life blades. Proper care of blades will also be stressed in the campaign. Premiums will probably be used to assist the retailer in merchandising. WEBR, Buffalo has already started a series of daily announcements at 7:30 a.m. for Cooper. Further outlets and type of program to be used are not yet ready for release. Heffelfinger Agency, New York, handles the account.

VACUUM Tube Division of the General Electric Radio, Television and Electronics Dept. has been changed to the Electronic Tube Division, according to Dr. W. R. G. Baker, vice-president in charge of the dept.

Modern Odysseus

STUDY of studio and audio facilities is the hobby of Art Peck, studio engineer of WCCO, Minneapolis, who in the past seven years has visited 59 studios and 28 transmitters. Mr. Peck's most recent pilgrimage was to the opening of new studios of WTMJ, Milwaukee. He has visited Pensacola, Salt Lake City, Albuquerque, and Memphis among others. He has seen 15 of the 21 Minnesota transmitters, six of the nine in North Dakota.

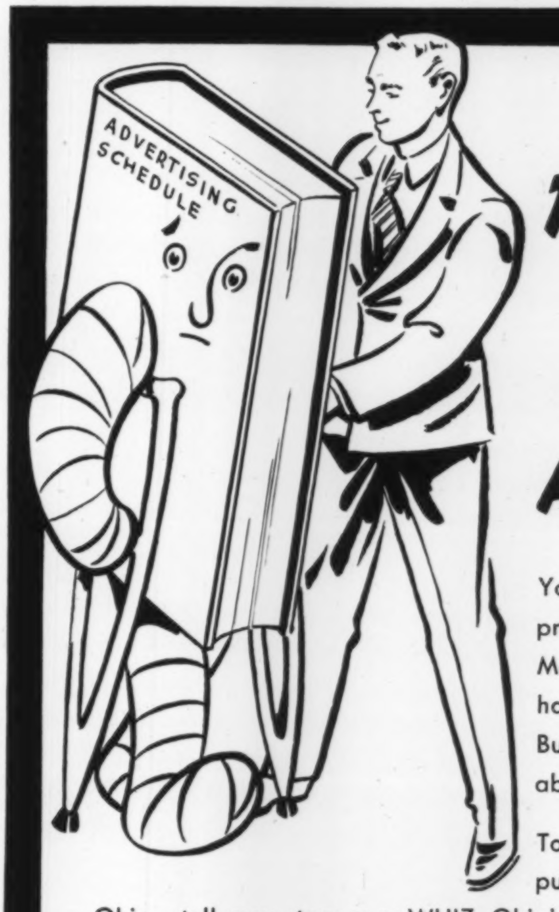
Sheffield Disc Spots

SHEFFIELD FARMS Co., New York, has launched a nine-week campaign for Homogenized Vitamin D Milk on ten New York stations. A total of 122 transcribed announcements are used each week on all stations. Agency is N. W. Ayer & Sons, New York.

Jack Benny Show Opens Fall Series in Hollywood

WITH change of plans first couple broadcasts of the NBC *Jack Benny Show*, sponsored by General Foods Corp. (Grapenuts), and resuming Oct. 4 for the ninth consecutive season, will originate from Hollywood instead of New York as originally announced. Benny is being held on the West Coast for retakes of his 20th-Century Fox film, "Meanest Man in the World". Unless further detained by his current picture, Benny and his troupe will go to New York following the Oct. 11 broadcast, remaining in that city for 10 weeks or more.

Switch in locale for the opening broadcast may also cause substitution of Phil Harris for Harry James' Orchestra. Latter aggregation was scheduled for the first two broadcasts originating from New York. It will probably be on the program at a later date. James' orchestra is held in New York by commitments.



FIRST AID TO YOUR WARTIME ADVERTISING

Your War Time advertising appropriation must be geared to the time! Methods and mediums of advertising have changed since December 7th. But—you must keep 'em informed about your product or service.

To reach the ears and the increased purchasing power of Southeastern Ohio—tell your story over WHIZ, Ohio's Biggest Little Radio Station.

By diverting a portion of your budget to WHIZ you'll be keeping your advertising UP and your cost per listener DOWN!

WHIZ

A FORT INDUSTRY STATION

SEE JOHN BLAIR

BLUE NETWORK

ZANESVILLE, OHIO

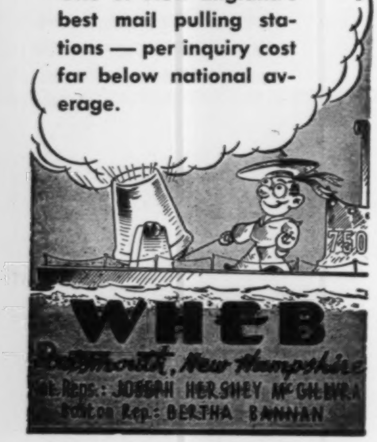
XUM

365,000 people make the Youngstown metropolitan district the third largest in Ohio.

WFMJ

Has more listeners in this rich market than any other station.

Headley-Reed Co.
National Representatives


One of New England's best mail pulling stations — per inquiry cost far below national average.
750
WHEB
Portsmouth, New Hampshire
Nat. Reps.: JOSEPH HERSHEY McGILLVRA
Boston Rep.: BERTHA BANNAN

WWL
NEW ORLEANS
50,000 WATTS
The Greatest Selling POWER in the South's Greatest City
CBS Affiliate
Nat'l Rep. - The Katz Agency Inc.

USE RADIO
WOW
OMAHA
FOR 276 RICH COUNTIES
Mainly in Nebraska and Iowa
590 KC. · 5000 WATTS
JOHN J. GILLIN, JR., GEN'L MGR.
JOHN BLAIR CO., REPRESENTATIVES

Senate Probe

(*Continued from page 11*)

ones, are going to have an increasingly difficult time in remaining on the air because of business conditions. He talked about local advertising revenues being on the decline and about the manpower, equipment and other problems that make wartime operations hazardous.

As had been predicted, the FCC analysis showed that the smaller stations in the outlying areas, without network affiliation, are being hardest hit by the ban and many of them are certain to go to the wall if deprived of this material. Mr. Fly said that while the analysis showed a goodly number of network stations will be seriously and in some cases grievously affected by the ban "the great bulk of the non-network stations face the drying up of the source of most of their program material."

After analyzing all of the charts and exhibits, Mr. Fly gave the Committee a composite picture of the station which will feel the "full force of this blow". He said:

"He is the fellow who isn't on a national network; his power is 500 watts or less; he is located in a city which has a population of less than 50,000; his total annual time sales are less than $75,000, and after he pays his expenses he either has lost money or has a net income for the year of less than $5,000 and he still has to pay his taxes."

Chairman Fly topped off his testimony with the observation that if it were not for music, "radio broadcasting as we know it could not exist". Without music, he said it was doubtful whether the country could support more than a handful of stations.

Asserting that the vital contribution of musicians to the industry should be recognized, Mr. Fly explained that the broadcast stations are vital to the country. An industry struggling with difficulties inherent in wartime operation, involving personnel and critical materials, is now faced with the "drying up of the source of over 40% of its programs."

26 OUTLETS SLATED FOR CO-OP SERIES

COOPERATIVE LEAGUE of the U. S. A., which for some months has been contemplating a radio campaign to "educate the American public on the meaning and benefits of cooperatives, has decided to use quarter-hour transcriptions, titled *Let's Get Together, Neighbor*, in the 4-6 p.m. period Sunday afternoons on 26 stations, selected for their market potentialities.

The campaign will start Oct. 11, according to Wallace Campbell, executive secretary of the organization, and scripts will be of an educational theme, transcribed by Columbia Recording Corp.

The series, to be heard at varying times in the two-hour period selected, will cost about $25,000, amount raised through voluntary contributions from co-op members throughout the country. Agency in charge is Atherton & Currier, N. Y.

RELIGIOUS SERIES ON ATLANTIC NET

GOSPEL TABERNACLE, New York, will sponsor a 37-week series of half-hour Saturday night broadcasts on the Atlantic Coast Network, beginning Oct. 17, it was announced last Wednesday by Edward Codel, ACN general manager, following a meeting of the regional network's affiliate station managers at ACN headquarters in New York.

Titled *Word of Life Fellowship*, the Tabernacle programs will deal with the work of young people in the church and will be interdenominational. Conducted by Jack Wyrtzen, they will be broadcast each Saturday from 10:30-11 p.m. on a seven-station hookup comprising the complete ACN southern unit, plus Boston and Providence. Business was placed direct.

Station meeting, first gettogether of all ACN affiliates since the beginning of the network's commercial operations, was held primarily for the purpose of arranging for time clearance for network programs and succeeded in clearing morning, afternoon and evening time for the entire network, Mr. Codel reported.

Operating Policies Discussed by NBC

PLANS and policies for NBC's operations during the coming season were discussed by a group of the network's executives during a three-day meeting held at Hot Springs, Va., Sept. 18-20.

Meeting was run on the seminar plan, with various officials conducting discussion sessions as follows: President Niles Trammell, "Employe Relations and Morale", assisted by John H. MacDonald, assistant treasurer; Frank M. Russell, Washington vice-president, "Governmental Relations"; Clarence L. Menser, vice-president in charge of programs, "Present and Proposed Policies Concerning War Effort Program."

William S. Hedges, vice-president in charge of stations, spoke on "Ways and Means of Strengthening the Position of Stations in Their Communities"; Charles B. Brown, director of promotion and advertising, "Economics of Radio in a Curtailed Economy"; John McKay, manager of the press division, "Radio and the Press"; and Albert E. Dale, director of information, "Public Relations Attuned to War Needs".

Only speaker outside the network executives was Ken R. Dyke, former NBC director of advertising, now head of the OWI's Bureau of Campaigns.

Bulova Spots on 270

LARGEST spot campaign undertaken by Bulova Watch Co., New York, started Sept. 20, with the purchase of spot time on 75 additional stations, making a total of 260 stations carrying Bulova spots for the firm. Agency is Milton Biow Inc., New York.

Book League Us Big Spot Campaig

Appeal to Women Liste Basis of Nationwide Drive

DOUBLEDAY DORAN & Co., N York, is running an extensive ca paign on behalf of the Book Leag of America, subsidiary book cl using participations on wome programs on 19 stations, and pa ticipations on 5 and 15-minute pr grams on 28 additional outle throughout the country.

Campaign centers around sample offer of two books, *The S Is My Undoing*, by Margaret Stee and *War & Peace* by Count L Tolstoy for $1.39. Retail price f both books is $4. The Book Leag is seeking more member su scribers through the mail ord drive. Books are obtainable d rectly from the sponsor, rathe than from the station itself.

Women's Schedule

The women's program schedul is currently getting under wa while the other participation started at different times, beginning in August. Contracts are i general on a tentative basis, an may be extended to 52 weeks wit different books offered from tim to time. Station line-up may be increased later.

Women's interest shows ar used on: KNX KFRC WTIC WBBM WLS KPO WBZ WJR WCCO KFAB WABC WEAF WJZ WOR WGY WCAU KPRC KSL KDKA.

Five-minute and quarter-hour programs are used on WPEN WPRO WMAQ KPO WJZ WBDO WMCA KARK KQW KSFO WWDC WKAT WAAF WBAL WHDH WMEX WNAC WXYZ CKLW KXOK WENY WAGE WGAR KGW WIP WEAF KGKO WINS.

Doubleday has used radio within the past year in two campaigns for Triangle Books, one on 6 and the other on 26 stations, and had previously scheduled a campaign on 60 stations for *Business Encyclopedia Brittanica.*

Agency is Huber Hoge & Son, New York.

Safety Disc Series

IN ADDITION to its successful weekly BLUE program *Men, Machines & Victory*, the War Production Fund to Conserve Manpower of the National Safety Council is distributing half and three-quarter minute transcribed spot announcements to stations throughout the country for broadcast at intervals during the day and night. The group of 100 recordings was donated to the Fund by RCA and some 60 stations are now playing them regularly. Each starts with a grim, realistic sound effect of a crash, followed by such dramatic attention-getting words as "That was an accident in a bomber plant!" or "That was an accident to a woman war-worker whose hair caught in a punch press. It had no safety guard—she wore no safety cap."

etrillo Under Fire at Senate Inquiry

vis, Fly Make Pleas For Quick Action

ALL for quick solution of the em presented by the Petrillo-red ban on the recording of scriptions and phonograph rec-, lest serious injury be done war effort, was made before the ate Interstate Commerce Sub- mittee last Thursday and Fri- by Elmer Davis, Director of I, and James Lawrence Fly rman of the FCC and BWC. ng during the preliminary rings were Chairman D. Worth k (D-Idaho) author of the ution to investigate Petrillo AFM; and Senators Charles Andrews (D-Fla.) and Charles Tobey (R-N. H.) Senators er Hill (D-Ala.) and Chan ney (R-S. D.) were absent be- e of other urgent committee tings. Running account of the imony follows:

h opening the hearing, Chair- Clark read his resolution ing the full-scale inquiry and ing toward remedial legisla- . He pointed out that the Gov- ment thought the situation suf- ntly serious to file a suit inst AFM but that he felt ap- priate legislation was neces- y.

Chairman Clark explained the committee now proposed to duct only a "preliminary hear- ", not the complete investiga- n, and would lay the ground- k with sufficient information to tify adoption of the resolution the Senate, following full com- ttee action. With that accom- shed, he said, a "full-fledged estigation" would ensue.

Aside from the Government nesses, Chairman Clark de- red the committee did not pro- e, in its preliminary inquiry, bear other testimony pro or con. The testimony of AFM, Petrillo nself, affected industries and ers would come following adop- n of the resolution by the Sen- e and opening of the formal in- iry. Funds would be sought from the Senate Committee on audit and control, he said, but only to defray ordinary inquiry costs. He said he did not contemplate retention of a large staff.

Explaining he had written Petillo asking him to withdraw his record ban of July 28, and that the union head replied July 31 rejecting the plea, Mr. Davis placed in the record this exchange of correspondence [BROADCASTING, Aug. 3].

Pointing out that his letter to Petrillo contained the statement that it had been sent on behalf of all departments of the Government identified with the war effort, he emphasized that it was sent only after consultation with these departments at a joint meeting and with approval of their representatives.

After reviewing the facts stemming from the June 25 Petrillo order, Mr. Davis pointed out that although the order on its face appeared unconditional, Petrillo later had stated he was willing to permit recordings to continue for home consumption, provided the recording companies would guarantee that their records would not be commercially used.

"I am informed that there is no legal way in which recording companies can make any such guarantee; nor does there appear to be any way in which it could practically be made effective. As a matter of fact, recording has stopped.

Many Lack Locals

Asserting that OWI will not interject itself into any labor disputes between employers and employes, Mr. Davis said, however, that Petrillo's refusal to permit members of his union to make further recordings did not relate to any specific grievance between the union and the recording companies. He said it was based on the fact that the recorded music had supplanted live musicians in several fields, notably radio, and in juke boxe entertainment.

There are more than 150 communities in the country which are not within the jurisdiction of any local of AFM but which are served by as many or more stations, the OWI director said. Many of the stations are in small communities in which there are a few if any unemployed union musicians.

Pointing out that these stations are dependent on recorded music to hold their audience, Mr. Davis said his office has a "direct and vital concern with the maintenance of the radio coverage in this country." Calling radio "one of the most important media for the conveyance of war information in general to the people," he said it may become of still greater importance when there is occasion for an emergency message from the national leadership.

"A policy which threatens the continued existence of many of the stations is injurious to the national system of communication, and may seriously hamper the work for which this office was established, of informing the people about the status and progress of the war effort and the war policies, activities and aims of the Government."

Deviating from his prepared statement, Mr. Davis said this was not an economic issue and that it was not the business of OWI who owns what radio station or what shoe store. It's a matter, he said, of keeping the vital medium going even if some stations have to be "subsidized". OWI, he declared, is "vitally concerned about the maintenance of radio service in the country." The Petrillo ban, he asserted, "may seriously hamper the work of this office".

Juke Boxes, Too!

Returning to his statement, Mr. Davis said this is the primary consideration which inspired his letter to Petrillo. But, he added, there are other factors. All the information which OWI can get indicates that men in the armed forces and workers in wartime industries get a large part of their recreation from freshly recorded popular music, with latest tunes played by the currently popular bands.

"The director of this office is not personally an addict of the juke box; but he notes that it seems to be highly popular among soldiers, sailors and marines in Army posts, at home, and among factory workers as well, while at our outposts overseas recorded music is a vital necessity for the entertainment of our troops."

Alluding again to Petrillo's letter replying to his plea, Mr. Davis said the union leader promised that his musicians would continue to make recordings for the armed forces and our allies. He pointed out, however, that the number of programs directly produced by the Army is small. What is needed, he said, is a free flow of freshly recorded music available through normal and customary channels.

"I am officially informed," the erstwhile CBS analyst said, "that the War Dept. has received representations from commanding officers at various war zones calling attention to the fact that a cessation of this supply of recorded music (and I quote from the letter of a commanding general), 'will jeopardize the complete morale and propaganda broadcast structure' at combat zone points. I am further officially informed that the War Department has thus far failed to receive from Mr. Petrillo any satisfactory assurances of the continuance of these vital services."

Mr. Petrillo also had promised in his letter that transcriptions for radio used as intended—once only—are not detrimental to AFM if destroyed after such use. Call-

(*Continued on page 62*)

AP

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KWKW

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PASADENA
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Now on the air with

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WATTS

Servicing

Pasadena, the San Gabriel Market

and

Los Angeles Metropolitan Area

3,000,000
high wage earners

WHAT'S WHAT IN Boston

1.

WCOP plays 3 roles in campaigns: (a) primary force by itself (b) supporting force with others (3) mopping up force.

REPRESENTED BY HEADLEY-REED CO.

WCOP BELONGS ON YOUR SCHEDULE

Court Upholds Hearing Right

(Continued from page 70)

to a hearing, Judge Rutledge said that the Commission's argument that appellant had no right to be heard because it had no vested right in the frequency was "untenable". The fallacy, he said, is that "one who has no such vested right has therefore no procedural protection in relation to the more tenuous rights, privileges or status he possesses." Then he alluded to the rights inherent in a license, whatever its label.

The majority concluded that the Commission must keep its hearings within manageable bounds. Expedition of the Commission's functions, Judge Rutledge said, requires that hearings "not become radio conventions or interminable trials like some receivership proceedings." He said there must be a limit to the number of persons entitled to participate as parties and to the extent to which those so entitled may take part.

It was in the "final and decisive stage" of the Commission's action when NBC was excluded as a party that the Commission erred, said the majority. When the Commission entered its proposed findings of fact, NBC should have been recognized as a party and allowed to participate, Judge Rutledge cited.

"For the error in excluding appellant from participation as a party in the final and controversial stage of the proceeding, contrary to the requirement of Section 303 (f) of the Act, the order must be reversed, with directions to afford appellant opportunity for hearing in accordance with the provisions of that section," the majority opinion concluded.

Judges Groner and Vinson, in a concise concurring opinion, said that they agreed with Judge Rutledge that the Commission should have accorded NBC the right to participate in a hearing as a party. They contended, however, that NBC should have participated in the proceedings under the original WHDH application. They disagreed with the view of Judge Rutledge that the Commission in its discretion may exclude NBC from participation until after the proposed findings of fact have been made.

"We think the statute contemplates that a licensee's right, although limited and defeasible, shall not be modified or destroyed without a hearing. To allow a hearing only after proposed findings of fact have been made is to deprive appellant of participation during the crucial period of the proceeding—that is, when the evidence is being taken and the record being made up. Appellant's interest existed from the beginning, and it is not enough that that interest was considered by the Commission."

Property Rights

Justice Stephens, in concurring with his three colleagues, added pungent views on property rights. He said he thought it was clear that a station licensed under the Communications Act for a definite term for the conduct of a broadcasting business requiring substantial investment is more than a "mere privilege of gratuity." Whether or not it may be technically called a property right, he added, "it is a thing of value to the person to whom it is issued and a business conducted under it may be the subject of injury."

Citing two reasons why he felt hearings were required, Judge Stephens said that in the absence of clear language requiring such a conclusion, it would be unthinkable to conclude that Congress would provide for the granting of station licenses for radio broadcasting contemplating, in connection with operating a station, investment in building space and equipment, the hiring of talent, the contracting for advertising, and the employment of labor, but at the same time fail to recognize that "by whatever technical name they might be called, whether property rights or license rights, interests would arise, in the persons to whom licenses were granted, which should as a matter of fair play not be impaired or destroyed by the Communications Commission without a hearing upon the question whether the public interest would be served by their impairment or destruction." He said right to a hearing before injury by the Government in the public interest is "one of the fundamental decencies guaranteed by democratic institutions."

To construe doubtful language of Congress as permitting the impairment or destruction of a licensee's interests without a hearing "would be to invalidate, under the due process clause of the Fifth Amendment, the action of Congress," Judge Stephens continued. "That that clause protects against the arbitrary impairment or destruction of substantial rights, even though they are limited by the public interest, is not open to doubt," Judge Stephens concluded.

WORRIED LISTENERS bombar ed WINX, Washington, with te phone calls when the station p on a pseudo-raid of its premise with rescues of victims from th roof of WINX. Presented to mak Washingtonians aware of the dan gers and damage that raids ma entail and to recruit volunteers f the Auxiliary Rescue Service, th demonstration was so realistic tha it fooled spectators.

Dissent: No Injury

Judge Miller, in his dissent, said he found no substantial allegation of injury in KOA's reasons for appeal. He held some injury, actual or anticipated, should be the minimum requirement. He added that in the KOA case, unless the electrical interference was likely to result in financial injury, the appellant was not an aggrieved or affected person within the meaning of the law. If financial injury was likely, to result, he contended the licensee could have spelled out that fact in his reasons for appeal.

He concluded that it imposes no undue burden upon one who seeks judicial review of the Commission's decision "to require that he specify clearly, unequivocally, precisely,

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ILLINOIS?

For a big chunk of it, use the DECATUR station,

250 W. 1340. Full time. Sears & Ayer, Reps. How can we help you?

WSOY

ature of his alleged injury. appellant has failed to do. quently, I would dismiss the l.”

ge Edgerton, in his dissent, he thought the person ag- d or whose interests are ad- ly affected contemplates a ntial injury as distinguished a “trifling or negligible one.” said he found nothing in the hich required the Commission ve KOA a hearing, but found contrary. Yet, he contended, Commission gave KOA a hear- and violated neither the Act ue process.

dge Edgerton said that KOA, matter of due process, might titled to some sort of hear- But he held that it was not en- d to a hearing which should de “the incidents of a trial in t.”

rsons may be “heard,” he said, ut being “permitted to inter- e, and thus become parties.” held that KOA was entitled to more than a hearing reasonably quate to protect its interests reasonably practicable for the mission and the public, and cluded that it had such a hear- when it participated in the l oral arguments.

KOA had an opportunity to ap- r and present evidence but hose not to do so,” he said. It s permitted to and did file a ief and make oral argument. Nothing more was required.” To e as the court majority did that e Commission's action was er- neous “is to cramp the administrative process by forcing it into e very mold which it is designed avoid. Since the Commission d to decide primarily a question f policy and only incidentally a estion of fact, the technique of a ial would have been clumsy and asteful.”

Blue's War Effort

CONTINUING its increase in the mount of time devoted to the war ffort, BLUE contributed a total f 112 hours in programs and announcements designed to stimulate morale or increase production uring the month of August. In June, the total was 73 hours and 5 minutes; July, 105 hours 54 min.

CANADIAN OUTLETS CUTTING AIR TIME

TO REDUCE wear on equipment all Canadian Broadcasting Corp. networks and all CBC stations except CBA, Sackville, N. B., will close at 11:30 p.m. local time throughout Canada starting Sept. 27, it was announced Sept. 16 by Gladstone Murray, CBC general manager, at Ottawa. Murray stated that such a reduction of broadcast operations in each time zone across the Dominion would lengthen the life of a large amount of equipment.

Exception is made of CBA because important war programs may be broadcast in that area after the National News Summary which finishes about 11:30 p.m. ADT. Stations affected by the early closing are CBJ, Chicoutimi, Que.; CBV, Quebec; CBM and CBF, Montreal; CBO, Ottawa; CBL and CBY, Toronto; CBK, Watrous, Sask.; and CBR, Vancouver.

Only one privately-owned station has cut its evening closing time, CHNS, Halifax, which has closed down since Aug. 24 at 11:15 p.m. There is no ruling that privately-owned stations must close down early, but it was intimated by Donald Manson, executive assistant to Gladstone Murray, early in August, that plans for rationing time for Canadian stations were under consideration [BROADCASTING, Aug. 17].

Cleanser Test

LOS ANGELES SOAP Co., Los Angeles, in a brief test campaign to promote its new product, Scotch Cleanser, will utilize a five-minute transcribed musical contest program, *Guess-A-Tune*, on five California stations. A total of 12 programs each starting on various dates, from Sept. 21 to Oct. 26 inclusive, will be used on KPO, San Francisco; KFI, Los Angeles; KNX, Hollywood; KMJ, Fresno; KERN, Bakersfield. Agency is Raymond R. Morgan Co., Hollywood.

Helen King Leaves WEBR

HELEN KING, promotion director of WEBR, Buffalo, has resigned to become radio columnist for the *Buffalo Evening News*. Once operator of the King Contest Bureau in New York, Miss King will also have the title of publicity director of WBEN, *News*-owned NBC affiliate.

WNEW
Start the Day Right
John B. Kennedy
NEW

CONTRACT FOR OVER five hours per week on WNEW, New York, for Howard Clothes [BROADCASTING, Aug. 31], New York, is celebrated at a luncheon for the sponsors, attended by Howard executives, WNEW talent, and officials of Redfield-Johnstone, New York, agency in charge. Snapped before a poster listing the seven programs to advertise Howard Clothes for 26 weeks, are (l to r): Irving M. Cohon, advertising manager, and Henry Marks, treasurer of Howard Clothes; John B. Kennedy, WNEW; Samuel Kappel and Joseph Langerman, presidents of Howard.

Religious Discs

INSTITUTE of Religious Science, Los Angeles (religious), on Sept. 15 shifted its five-weekly quarter-hour morning program, *Science of Mind*, with Dr. Ernest Holmes, commentator, from KFAC, that city, to KFWB, Hollywood. Contract is for 52 weeks. Utilizing transcribed versions of the program on a five-weekly basis, the organization is also currently testing on KFEL, Denver; WPEN, Philadelphia; WHAM, Rochester; KROW, Oakland. Other stations will be added to the list. Agency is Raymond R. Morgan Co., Hollywood.

Canada Labor Spots

DEPT. OF LABOR, Ottawa, used a live spot announcement campaign several times daily to remind women between 20 and 24 years of age that they had to register during the week of Sept. 14-21. Every Canadian station was used. The department also is using spot announcements in advance of the Canadian Broadcasting Corp. weekly network show, *Step It Up*, dealing with labor on war production. Both campaigns of paid spot announcements were placed by R. C. Smith & Sons, Toronto.

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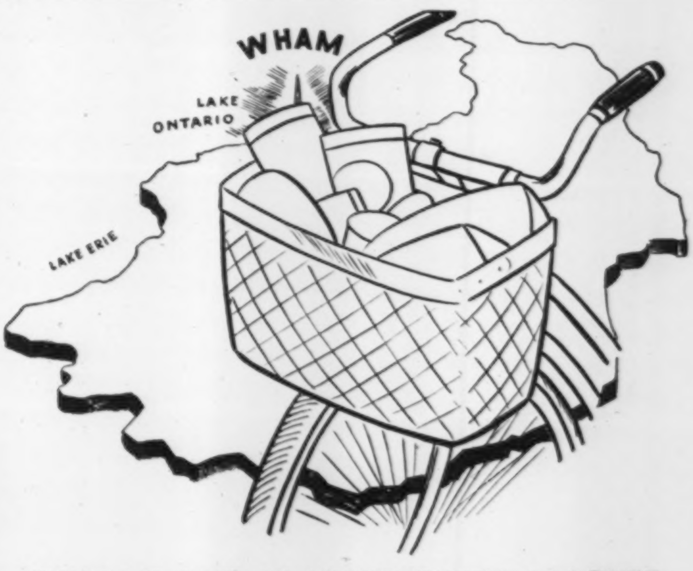
5,000 WATTS DAY & NIGHT
COLUMBIA
The Katz Agency, Inc. – Representatives



WHAMLAND IS YOUR SUPER-MARKET

WHAMland's 17,787 neighborhood groceries make this rich 43-county area a super-market for food merchandising . . . a market that measures up to those for all the other goods that WHAMland folks buy. These are the stores, the super-markets, the neighborhood groceries, the crossroads stores that sell your goods . . . near enough and convenient enough to all of WHAMland's 900,000 radio homes to afford quick satisfaction for the buying desire your WHAM program creates.

With WHAM's clear channel, 50,000 watt signal you reach all of these buying neighborhoods at approximately one-third the cost of localized coverage of the same area.

WHAM
ROCHESTER, N. Y.

National Representatives:
GEORGE P. HOLLINGBERY CO.

50,000 Watts . . . Clear Channel . . . Full Time . . . Affiliated with the National Broadcasting Co. & The Blue Network, Inc.

"The Stromberg-Carlson Station"

XUM

Petrillo Probe

(*Continued from page 59*)

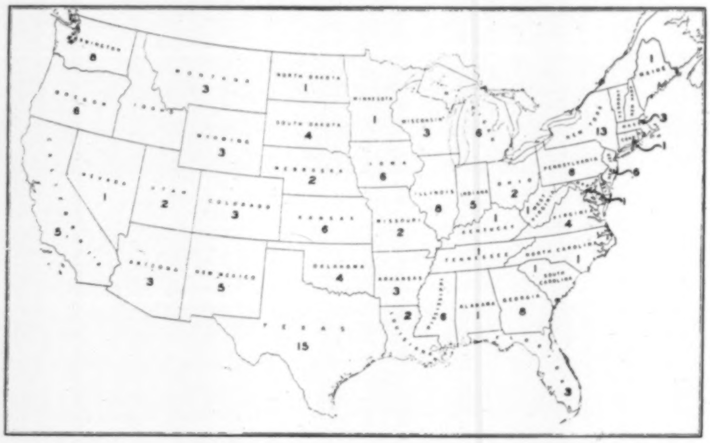
ing this "a not unimportant exception to this ruling," Mr. Davis pointed out that a large number of important programs are broadcast by transcription and played only once on each station involved.

Not only is this true with respect to programs produced solely by means of transcription, he said, but many popular network shows find a larger audience, especially in the outlying communities and in the territories such as Hawaii, Puerto Rico and Alaska, by means of supplemental coverage afforded through transcriptions made simultaneously with the network performance.

Many of these programs contain patriotic messages in addition to entertainment. Asserting that the promise implicit in Mr. Petrillo's statement that such programs would not be interfered with was welcome, Mr. Davis said that for a short time this special permission was granted for the making of transcriptions which came within the scope of his definition.

"On Sept. 3, however," Mr. Davis explained, "Mr. Petrillo revoked all permissions heretofore granted for this type of recording and announced that he would grant no further permissions. So that exception is now cancelled."

Summing up, Mr. Davis said:



A TOTAL of 167 stations, segregated as shown on this map, whose net income before taxes was less than $5,000, may go under if the transcription-record ban of the AFM continues. This exhibit was used by FCC Chairman James Lawrence Fly, along with others, to show the plight of the industry and the need for action.

"This office is not concened with any individual broadcasting stations or individual proprietors of institutions in which juke boxes are located, against whom Mr. Petrillo may have a grievance. Our concern is primarily with the national interest in maintaining the broadest possible system of radio communication; and secondarily with the persons with whom Mr. Petrillo has no dispute at all, who are adversely affected by his ruling—the broadcasting station located far from the sources of supply of available musical talent and in no economic position to serve without recordings; the operator of the candy store across the street from any army post; the U.S.O. hut in Alaska—all these places and the people whom they serve, are dependent on recorded music.

On Legislation

"I have no suggestion to make to this committee with respect to the passage of any legislation, and do not even know whether legislation is necessary. I have confined my statement to the facts which inspired my letter to Mr. Petrillo."

Under cross-examination, Mr. Davis agreed with Chairman Clark that the net result of the Petrillo action is that all recording of music stopped as of Aug. 1 and that the single exception made to the Aug. 1 order since has been revoked. He agreed likewise that it was obvious that in a short while existing records will wear out or become obsolete.

"Doesn't that mean that a large number of stations will have to substiute for these recordings or go out of business?", asked Chairman Clark.

Answering affirmatively, Mr. Davis said that his office felt something had to be done to preserve continuity of service. He explained that he had sought to have Petrillo revoke his order but was met with a refusal.

When Chairman Clark observed he appreciated Mr. Davis' position regarding advocacy of legislation, the OWI Director said he understood the statutes forbid information officers of the Government from espousing any legislation.

Senator Andrews asked whether it was not a fact that stations are required to operate a minimum number of hours daily and whether if recorded music was withdrawn they would not be forced to substitute "a lot of talk" for music. William B. Lewis, chief of OWI's Radio Bureau, who accompanied Mr. Davis to the hearings, said he understood FCC regulations required minimum operating hours.

When Mr. Davis jokingly interjected that talk "used to be my trade", Senator Tobey commented that "the country at large misses you on the air" in spite of the "larger job you are doing."

"Time will tell," rejoined Mr. Davis.

"Unless Congress does something," Chairman Clark observed, "it appears nothing will be done." He asserted the Department of Justice civil suit in Chicago may be effective but is subject to "interminable delays". Pointing to the importance of the time element, he said that whatever side wins in the Chicago litigation, an appeal is likely.

"Since Petrillo has refused to cooperate voluntarily with his Government in the war," the chairman asserted, "we must do something. This committee will explore the entire field and intends to do it with dispatch. Then we propose to find out what can be done to meet the situation. "Unquestionably these restraints will cripple to a large extent our whole communications system and disturb the morale of our troops," the chairman said.

Many Letters

Mr. Clark disclosed he had received a "great swarm of letters" on his resolution from the public, stations vitally interested and other groups. He said the committee, when it began its formal hearings, proposed to give Petrillo and his people full opportunity to be heard. Local 802, New York, largest of the AFM units, alr has asked to appear and wi accorded the opportunity foll the preliminary hearings, the ator said.

Somewhere along the line, chairman asserted he hoped would be possible to get a vol tary agreement to "keep them ing at least for the duration of war."

When Senator Andrews co mented that he had "great admi tion for the work you are doin Mr. Davis promptly rejoined, hope you will remember that w we come up to Congress to ask some money.

Chairman Clark expressed gratitude of the committee for Davis' illuminating statement a said it was the consensus of Senate that "you are doing a spl did job." He promised to "help y get that money."

Fly's Testimony

Opening the second session F day, Chairman Clark asked Senat White (R-Me.) to sit in with t committee. Senators Gurney a Hill again were absent because other committee obligations. Chai man Clark described Senator Whi as "the outstanding authority o radio in the Senate" and M White, victorious in the Maine ele tions last week for his third si year term, rejoined that the o servation was "more kind than a curate".

Chairman Fly read a prepare statement interspersed with ex hibits and analyses based on th FCC's detailed inquiry into th music situation on stations.

Explaining that the Commissio was concerned only with the im pact of the recording ban on th broadcasting industry, Mr. Fl pointed out that the Clark Resolution is much broader in scope.

The impetus for the Commission's study came not only from the announcement of the recording ban, but also from complaints it had received on cancellation of the high school orchestra broadcasts from Interlochen, Mich. Chairman Fly recounted to the committee the results of the FCC study into the Interlochen matter, pointing out that he had asked for comments both from President Niles Tram-

IT'S A W BIG JOB

AIR RAID SHELTER
GREENSBORO N.C.

The MAGIC CIRCLE

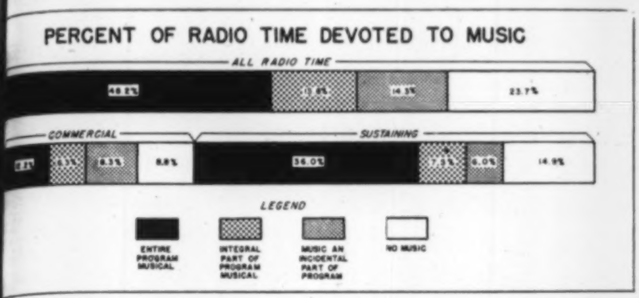
And this job takes priority over All —with WBIG!

A Columbia Broadcasting System Affiliate.

EDNEY RIDGE DIRECTOR

WBIG
GREENSBORO, N.C.
GEO. P. HOLLINGBERY CO., NAT. REP.

SPOTS
WHERE THEY'LL DO THE MOST GOOD!
Reaches 28000 ENGAGED IN WAR INDUSTRY ALONE
Blue Network
KFDM
BEAUMONT
Represented by HOWARD H. WILSON COMPANY



of NBC and from Petrillo, as as from all stations.

. Petrillo told the Commission he objected to broadcasts by eur musicians who compete professionals, and in addition the position that the Inter- Camp is a "commercial sition" and, like other radio rtisers, should pay for musi- s when it goes on the air to rtise itself.

FCC's Survey

he FCC asked all stations to se it whether during the past e years there had been any parable instances involving r stations where amateur musi- s had been kept off the air or mitted to broadcast only if pro- onal "stand-bys" were speci- employed for the occasion. He unted there had been 31 in- nces where amateurs had been t off the air, either because the n forbade the broadcast or the tion refused to employ the re- site number of stand-bys. About f involved high school orches- s or military bands.

n addition, Mr. Fly said the mmision had information of 36 tances where amateur musicians e been permitted to broadcast y after professional stand-bys d been specially employed. The er 723 stations which thus far e answered the Commission e not reported any similar in- nces.

Chairman Fly revealed that 366 f the 723 stations which responded the questionnaire have either itten contracts or oral under- ndings with the local union.

After Weber

Dealing with recordings and nscriptions, Mr. Fly said his derstanding of the AFM objec- n is that recordings and tran- riptions compete with live musi- ans and thus decrease the op- rtunities that musicians have for ployment in radio. He said trillo contended the situation is usual because the very devices hich compete with live musicians e made by the musicians them- lves.

Tracing the history of the record- g fight to the original 1931 Chi- go ban by Petrillo, then only head f the Chicago local, Mr. Fly inted out that all past disputes ve been settled without any na- onal ban.

Discussing the impact of the cording ban on radio, Mr. Fly id that in order to get this in- rmation, the FCC on Aug. 15 sent its detailed questionnaire to all standard stations, using the week of April 5-11 as a typical broadcast week. Thus far, 796 stations out of the total of 890 in the continental United States answered the questionnaire. He said the replies received are in every respect a representative sample and that the lack of 94 replies would not change the picture.

Employment Shown

Breaking down the results of the survey in each vital category, Mr. Fly said it showed 2,171 fulltime staff musicians employed at the 796 stations. This is an average of 2.72 fulltime men per station. He noted that 463 stations (58.2%) did not employ any fulltime musicians and 124 stations (15.6%) employed only one musician. In addition to the 2,171 musicians, these 796 stations employ 1,171 parttime men, and 685 rural entertainers, "commonly called 'hillbillies'."

The analysis showed the average station was on the air 112 hours during the typical week. For approximately 86 of those hours, the average station broadcast programs which contained music. In other words, 76% of the total broadcast time of the average station is devoted to music.

The replies as to musical programs were broken down into three categories, those in which the entire program was music, or music was an "integral" part and where it was "incidental". The breakdown showed that 48.2% of the time was devoted to programs entirely musical; 13.8% to programs of which music formed an integral part, and 14.3% to programs where music was merely incidental.

Describing his next exhibit as the most important aspect of the problem, Mr. Fly went into the extent to which recorded music is used by stations. This showed that 42.6% of the average station's total broadcast time is devoted to recorded music and 33.7% to live music. Explained another way, Mr. Fly said it revealed that 55.9% of the average station's musical time is devoted to recorded music and 44.1% to live. Approximately 40% of all commercial time is devoted to programs containing recorded music, he said.

Sees 'Serious' Effects

Explaining another chart, revealing the relative importance of phonograph records and electrical transcriptions, Mr. Fly said it revealed that nearly two-thirds of all recorded radio music consists of transcriptions and about one-third of phonograph records. He pointed out that transcriptions generally are of considerably higher quality.

This does not give the complete picture as to importance of transcriptions because transcribed spot announcements containing music are not covered. During the typical week, the 796 stations reported broadcasting 32,470 such announcements, or an average of 40.8 per station. They received $209,514, or an average of $263 per station for that week.

If the ban on recordings continues, Mr. Fly said, it will not be long before the broadcasting industry is "very seriously affected".

"You can't shut off the program source of over 40% of all radio time without striking at the heart of broadcasting. True, the stations have a supply of records on hand, and they also have available to them the services of transcription libraries. But this doesn't solve the situation. Recordings wear out. And of immediate importance, stations will lose their audience if they can't get new tunes."

Breaking down the survey to show the relative importance of recorded music to network and non-network stations, low-power and high-power stations, stations in small and large cities and the more prosperous against the less prosperous, Mr. Fly described to the committee a series of exhibits covering each aspect.

Recorded Music

Of the 498 stations affiliated with national networks, 368 (73.8%) broadcast less than 50% of their music in recorded form. The remaining 130 (26.2%) broadcast more than 50% of their music in recorded form.

The breakdown for 298 non-network stations showed that only 18 (6%) broadcast less than half their music in recorded form, with the remaining 280 (94%) relying on phonograph records and transcriptions for more than half their music.

While only 26 non-network stations (8.7%) broadcast less than 60% of their time in recorded form, there were 272 (91.3%) which broadcast more than 60% of their time in recorded form. And

(*Continued on page 66*)

$678,024,000.00
Annual income of WIBW farm families — a market dominated by our six-state signal. Ready to sell for you.

WIBW The Voice of Kansas in TOPEKA

Elmer Diddler's Doings:

Lunch-Time Facts That Stay With You

NEXT time you have lunch, Elmer, remember that while you eat, WGY is busy attracting *more listeners in this airea than all other stations combined*. Between noon and 1 p.m., WGY has 53 per cent of the listeners, with the next most popular station corralling only 14 per cent. That's what the General Electric Market Research Department found in a recent survey of noontime listening habits up this way. It's no wonder, for WGY—

GENERAL ELECTRIC
WGY
50,000 WATTS
SCHENECTADY, N. Y.

★ is the airea's only 50,000-watt station
★ is the airea's only NBC outlet
★ has the airea's lowest frequency
★ is the airea's only 20-year veteran

WGY-78

Industry Harmony to Keynote NAB Chicago Board Session

SPURRED by wartime demands, a plan for a united industry, under the aegis of the NAB, will keynote the meeting of the board of trade association in Chicago, Sept. 24-25, according to prominent board members.

Plans will be projected under which a wartime emergency committee, responsible directly to the board, would be created, combining present functions and activities of all trade groups. No changes in NAB top personnel, headed by NAB President Neville Miller, are under contemplation, it is understood. The feeling of many broadcasters, according to director reactions in the various districts, is that a more effective job for the industry as a whole in the wartime economy could be done through elimination of duplicated effort.

Harmony Proposal

In seeking to restore full-scale harmony in industry ranks, some board members propose that such organizations as Broadcasters Victory Council, National Independent Broadcasters, Network Affiliates Inc., and other trade groups set up because of dissatisfaction with the NAB during the last couple of years, be given representation on the proposed wartime emergency committee. The groups as such would become quiescent and function through the NAB.

With the return to NAB of NBC, President Niles Trammell has designated F. M. Russell, Washington vice-president, as that network's board member. NBC dropped out of the trade association last May because of dissatisfaction with action of the convention on the question of active membership of networks. It proposed that networks be accorded only associate memberships.

Under this proposed structure, the Washington front will be covered on behalf of the entire industry. The operating costs would be defrayed, on behalf of NAB members, through present dues. Non-NAB members, however, would be assessed for special dues, or, if they joined the trade association, would avoid such an assessment.

The board will consider plans drafted by President Miller for the creation of a separate public relations department within the NAB to do an overall industry job. A director of public relations would be retained.

Most significant of the problems confronting the board deal with manpower and equipment conservation. Progress reports on work thus far done in these two vital fields will be given the board by President Miller. Both projects are nearing fruition.

Joins the WAVES

ELIZABETH FERRER, of CBS presentation division, sales promotion department, has successfully passed examinations for apprentice seaman in Class V-9 USN as a member of the WAVES. She will serve one month of apprentice seamanship, followed by three months as midshipman, after which she will be eligible for rating as ensign. Miss Ferrer, who has a brother serving as ensign, has been with CBS more than two years. She has been a member of the American Red Cross Motor Corps, giving her services as ambulance driver up to the time of her call to duty.

Miss Ferrer

Chambers to WAVES

HELEN F. CHAMBERS, editorial assistant in the Chicago office of BROADCASTING, has been sworn in the Navy WAVES and will report Oct. 6 for officer training at Smith College, Northampton. Upon completion of a four-month course, she will be commissioned an ensign and assigned to active duty. Before joining BROADCASTING a year ago, Miss Chambers was on the continuity and program staff of WHB, Kansas City, and a program director of WDBO, Orlando, Fla. She graduated two years ago from Kansas State College.

Mail Motto

PATRIOTIC motif on mail from WIL, St. Louis, is found in the dateline at the top of the letterhead. A recent letter from the station to BROADCASTING was dated "Sept. 11th, 1942, One Day Nearer to Victory."

New FCC Probes Of Two Applicants

Departures From Precedent Are Taken by Commission

FURTHER hearings in two cases involving broadcast applicants, to inquire into the qualifications of officers, directors and stockholders, were ordered by the FCC last Tuesday in actions marking a novel departure from established procedure.

By a split 5-2 decision, the FCC ordered further hearings involving applications for a construction permit for a new station in Wilkes-Barre, Pa., to take over the facilities of WBAX. On July 14, the FCC, in a proposed decision, announced it proposed to grant the application of Northeastern Pennsylvania Broadcasters Inc., for a 100-watt station on 1240 kc., the WBAX facilities. Simultaneously, it announced its decision to deny three competitive applications.

Labor Protest

In its action last Tuesday, the Commission redesignated all of the applications for hearing "to determine the qualifications of the applicant, Northeastern Pennsylvania Broadcasters Inc., its officers, directors and stockholders, to construct a new broadcast station at Wilkes Barre****." Simultaneously it ordered that oral argument scheduled for Sept. 23 be cancelled.

Commissioners Craven and Case dissented, presumably on the ground that at the oral argument the additional information would be forthcoming.

It is understood that the FCC has received a petition from labor organizations in the Wilkes-Barre area protesting the proposed grant. Presumably the FCC intends to inquire into allegations of the labor unions at the time of rehearing, date for which has not yet been set.

The license of WBAX was revoked over a year ago, but the FCC has allowed the station to operate under a temporary license because of the need for a second station in the area. Northeastern, it is understood, proposed to take o the facilities of WBAX thro purchase of equipment.

President of Northeastern Robert Doran, attorney. Ei local businessmen each hold shares of common and prefer stock in the company.

The second action dealt w designation for further hearing the applications of WTNJ, Tr ton; WCAM, Camden, and WCA Asbury Park, for renewal a modification of licenses. The s tions now share time on 1310 k but WTNJ seeks the facilities the other two stations with present power of 500 watts.

The Commission said it appear that additional facts were nec sary to enable it to make a prop determination and called for t new hearing "to determine t qualifications of the applica WOAX, Inc., its officers, directo and stockholders, to conduct op ation of WTNJ as presently op ated or as proposed in Dock No. 6161."

Owners of WTNJ are listed Charles E. Loew and Julie Loew, New York City; and F. Wolf, Morrisville, Pa., each hol ing approximately one-third.

LOCAL IN PASADENA, KWKW, ON THE AI

HAVING hurdled priorities a other difficulties caused by the wa KWKW, new Pasadena, Cal. st tion operating with 1,000-watt daytime on 1430 kc. went on th air Sept. 12 with an inaugural pr gram which included civic leader and Hollywood film personalitie Identified with the cultural, civ and business activities of Pasaden as a strictly local station, KWK is headed by Marshall S. Neal a president and general manage Mr. Neal is a Pasadena merchan [BROADCASTING, July 20].

R. L. Rust, onetime president o Allied Adv. Agencies, Los Angele is sales manager, with Dwigh Hauser, formerly of KMPC, Bev erly Hills, Cal., assigned as pro gram director. Paul Spargo, for merly of KWIL, Albany, Ore., i chief engineer. Bob Garrett, for merly program director and chie announcer of WCOV, Montgomery Ala., serves the new station in th latter capacity, and is also i charge of publicity.

RCA - equipped throughout studios and executive offices are lo cated in the Pasadena Athleti Bldg., with directional transmitte at San Gabriel, Cal. KWKW wa authorized on Aug. 22, 1941 whe the FCC issued a construction per mit for a new local outlet to South ern California Broadcasting Co [BROADCASTING, Sept. 1, 1941].

BRITISH COLUMBIA
LAND OF OPPORTUNITY
First With National Business, Too
CJOR
VANCOUVER CANADA
J. H. McGILLVRA (U.S.)
H. N. STOVIN (CANADA)
NOW MORE THAN EVER 1ST

Georgia's Most POTENT "Spot Market" DUO
WATL ATLANTA MBS 250W
WRBL COLUMBUS CBS 250W
Represented by SPOT SALES Inc.

THERE'S MORE FOR YOUR MONEY AT
CFNB
FREDERICTON—N.B.
1000 WATTS—BASIC C.B.C. OUTLET
WEED and CO.—U.S. Representatives
BOSTON
N.Y.
CFNB Signal strength increased 25%

deral Radio Plan
tlined by OWI

ies of Meetings Begun to
ent Federal Project

ESTABLISH closer liaison be-
n the Government and radio
works and advertisers, an Office
War Information group headed
William B. Lewis, chief of the
I radio bureau met in New
k last Friday with representa-
s of the networks and adver-
g agencies.

At a luncheon session Mr. Lewis
mpanied by Douglas Meservey,
mour Morris and Nat Wolff,
of the OWI radio bureau, met
h members of the Advertising
ncil and members of the "Com-
tee of 25" talent group [BROAD-
STING, Sept. 14, 1942], who were
New York. Chester LaRoche,
-president of Young & Rubicam
s also present. Kay Kyser,
irman of the "Committee of
", explained the reasons for its
anization.

Mr. Lewis underlined the value
talent in pointing up Govern-
nt messages aimed at such vary-
g objectives as scrap, recruiting,
nd sales. Mr. Morris discussed
e Allocation Plan and its results.

Series of Meetings

In the afternoon, all OWI con-
cts in New York advertising cir-
s, executives of the networks as
ell as radio writers, directors and
oducers interested were invited
attend a meeting to realize the
sponsibilities confronting radio
bringing more information to
e people. At the larger meeting
nducted in the large 6B studio
f NBC, addresses were made by
r. Lewis, Mr. LaRoche, and Mr.
Kyser.

Similar meetings are scheduled
for Chicago, Sept. 21 where Mr.
Lewis and his aides will conduct a
orning session at the Drake Hotel
nd an afternoon gathering at the
CBS studios in the Wrigley Build-
ng. In Hollywood, Sept. 24-25,
this same group will hold similar
eetings with West Coast radio
and agency figures. In addition,
Sidney Strotz, NBC vice-president
is scheduled to deliver one of the
keynote addresses during the lunch-
eon at the Beverly Wilshire Hotel,
discussing radio's increasing role
in the delivery of Government mes-
sages.

CHNS
Halifax, N. S.
First choice for
results in the
maritimes
Ask JOE WEED

RADIO'S GLAMOR-PLUS GIRL, Patricia Hill, is piling up titles for herself. The *Green Hornet* girl in the coast-to-coast BLUE network thriller, she won the "Miss Michigan" award, and placed third in the 1942 "Miss America" beauty pageant at Atlantic City. Her rivals in the Atlantic City contest voted her "Miss Congeniality", the only other trophy award after the selection of "Miss America", while Atlantic City merchants presented her with a sizeable War Bond and the title, "Most Likeable Girl."

Weed Boston Office

OCCASIONED largely by its representation of the newly-formed New England Regional Network, Weed & Co., radio station representatives, last week announced opening of a Boston branch in the Statler Bldg. The office is under the management of Charles D. Kean, associate professor of advertising and marketing at Boston U, who resigned that post to join Weed. Mr. Kean is regarded as an authority on New England markets and merchandising. He was the head of the plans department of the Goulston Agency and formerly a member of the advertising staff of the *Boston Post*.

GLASER-CRANDELL Co., Chicago (Derby barbeque sauce), on Oct. 5 will start *Happy Jack Turner*, singer-pianist in a thrice-weekly five-minute program on WMAQ, Chicago. Contract for 26 weeks was placed by Earle Ludgin Inc., Chicago.

Are you using the ASCAP Radio Program Service?

- New series available now, without charge, to any ASCAP Licensed Station. Write or wire today.

ASCAP
Radio Program Service
30 Rockefeller Plaza • New York

Flex-O-Glass List

FLEX-O-GLASS MFG. Co., Chicago (translucent screening), in its largest radio advertising appropriation has placed, through Presba, Fellers & Presba, Chicago, a schedule of programs on 31 stations. In addition to sponsoring weekly quarter-hour portion of the Saturday evening barn dance programs on WLS, Chicago, and WHO, Des Moines, company has placed a varied schedule of five-minute and quarter-hour programs on WLS WHO WJR KMA WOR KMBC WDZ WTAM KIRO KSL WGY WIBW WLW KMMJ WEEI KHQ KIDO KSOO WDAY KFBI KOIN WHAM WCSH KWTO KDKA WCCO KMOX KSTP KFAB KGHL XEAW.

Wise Adds 49

WILLIAM WISE & Sons, New York, has added 49 stations to the list of 80 outlets being used to promote a health book titled *Modern Home Physician* [BROADCASTING, Aug. 24]. Five-minute transcriptions and quarter-hour recorded musical programs are utilized on the following additional stations: WHN KFBB KIEM KMAC KOAM KPAB KPAS KSAN WHK WINS WGFA WCOL WGRC KUTA KVFD KVI KXL KGFF KYA WFHR WGAL WHCV WHIS WLIB WLBC WMBR WMRF KSUN KEEW KFNF WFIZ KFXM KGER KLUF KTAQ WSNY WORK WKYN WCLO WJBK WCAP WRLC KUJ KTUC WARM. Huber Hoge & Sons, New York, handles the account.

John E. McMillin Named As Director of Compton

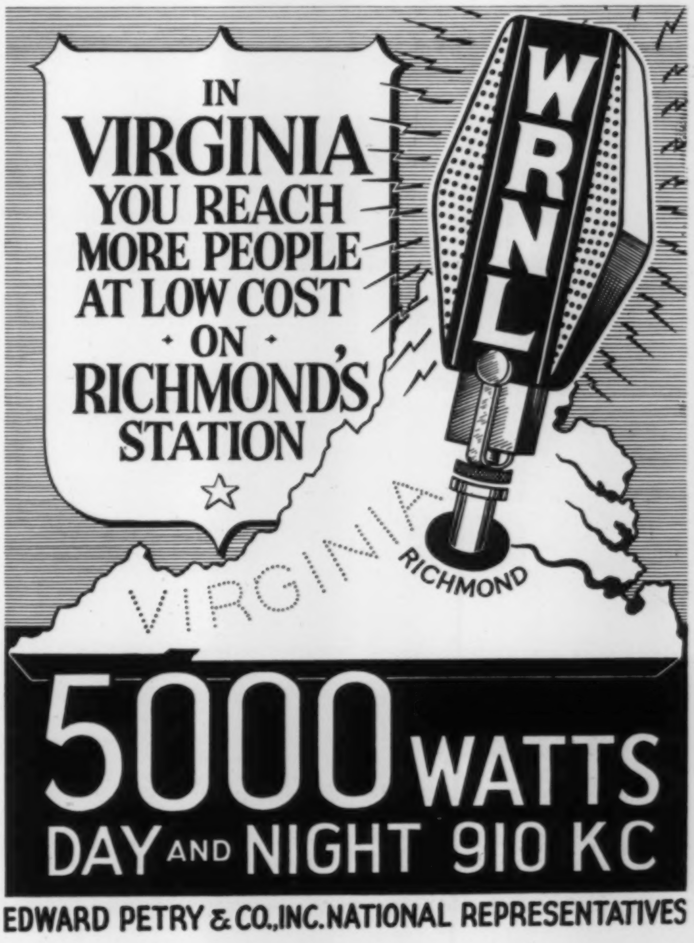
JOHN E. McMILLIN, vice-president and radio director of Compton Adv., New York, has been appointed a director of the agency, succeeding Alfred Stanford, Compton vice-president, who has resigned to become a lieutenant commander in the Navy. Mr. McMillin will have charge of all creative work, both in copy and in radio.

Mr. McMillin

New head of the radio production department will be Storrs Haynes, former program buyer and continuity director of the agency. Replacing him will be Hal James, local program supervisor, while Gilbert Ralston, network program supervisor, has resigned to join the radio department of Procter & Gamble Co., Cincinnati, as assistant to William M. Ramsey, radio director. Robert Wamboldt, Ted Bell and Miss Corlis Wright continue as program supervisors.

AFRA Chicago local members on Sept. 26 will give a benefit Coronation Ball in the Sherman Hotel, Chicago, to raise funds for the 55 Chicago AFRA men now in the armed forces.

W. & L. E. GURLEY Co., Troy (instruments), sponsored a half-hour broadcast on WTRY recently to air awarding of its Army-Navy 'E'.



Actions of the FEDERAL COMMUNICATIONS COMMISSION

SEPTEMBER 12 TO SEPTEMBER 18 INCLUSIVE

Decisions . . .

SEPT. 15

KOB, Albuquerque—Granted extension special service authorization to Sept. 30, 1943.

KMPC, Beverly Hills, Cal.—Modified CP extend complete date, adjust directional antenna.

KOCA, Kilgore, Tex.—Granted consent to Roy G. Terry to acquire control of Oil Capital Broadcasting Assoc., license of KOCA.

KOBH, Rapid City, S. D.—Designated for hearing application for CP.

WFLA, Tampa—Designated for hearing application CP.

KFXM, San Bernardino, Cal.—Designated for hearing application CP.

WWNC, Asheville, N. C.—Designated for hearing application modify CP.

KPRC, Houston—Dismissed without prejudice application modify CP.

NEW, Utica Observer Dispatch, Inc., Utica, N. Y.—Dismissed without prejudice applicaton CP.

NEW, Pottsville Broadcasting Co., Pottsville, Pa.; Pottsville News & Radio Corp., Pottsville, Pa.; The Schuylkill Broadcasting Co., Pottsville, Pa.—Dismissed application CPs, failure to supply requested information.

NEW, Wilkes-Barre Broadcasting Corp., Wilkes-Barre, Pa.; Central Broadcasting Co., Wilkes-Barre, Pa.; Northeastern Penna. Broadcasting Inc., Wilkes-Barre, Pa.; Key Broadcasters, Inc., Wilkes-Barre, Pa.—designated further hearings applications for CPs. Argument scheduled Sept. 23 cancelled.

SEPT. 16

KHQ, Spokane—Granted motion to dismiss without prejudice application for CP.

WFAS, White Plains, N. Y.—Granted continuance of hearing from Sept. 24 to Oct. 26.

WTNJ, WOAX, Inc., Trenton; WCAM, City of Camden, Camden; WCAO, Radio Industries Broadcasting Co., Asbury Park—Designated further hearings for renewal and modifications of licenses.

WOW, Omaha—Denied petition requesting order to KBON to discontinue operations on 1490 kc.

Applications . . .

SEPT. 14

W9XG, W6XYZ, KTSL, extension date for completion new television stations.

WASH, Grand Rapids, Mich.—Modify license increase power.

KOCY, Oklahoma City—Relinquish control of station through sale of stock.

KWOS, Jefferson City, Mo.—Change frequency control equipment.

SEPT. 17

WNAC, Boston, Mass.—Extension special service authorization.

WWNY, Watertown, N. Y.—Modify CP extend completion date.

WWVA, Wheeling—Modify CP.

Tentative Calendar . . .

WIOD, Miami—CP for 610 kc., 5 kw night N; 10 kw day. (Sept. 21)

NEW, Waco, Tex.—Beauford H. Jester individually and as Trustee, CP for 1230 kc., 250 w unlimited (Sept. 21)

KXKX, Kansas City—Renewal of license, further hearing. (Sept. 21)

KDYL, Salt Lake City—CP for 880 kc., 10 kw, unlimited. (Sept. 23)

KXO, El Centro, Cal.—Modify CP (Sept. 24)

Tobacco Dates Shifted

EXTENSIONS were granted last week to the four major tobacco companies facing Federal Trade Commission complaints charging misrepresentation in advertising. R. J. Reynolds Tobacco Co. (Camel), and Philip Morris & Co., scheduled to appear for hearing Sept. 15, were given a second extension. R. J. Reynolds will appear Sept. 26, Philip Morris Oct. 1. American Tobacco Co. (Lucky Strikes) and its subsidiary, American Cigarette & Cigar Co. (Pall Malls), were granted extension to Oct. 11.

Network Accounts

All time Eastern Wartime unless indicated

New Business

LEWIS-HOWE MEDICINE Co., St. Louis (Tums), on Oct. 3 starts *Mr. Adam & Mrs. Eve* on 52 CBS stations, Sat., 8-8:30 p.m. Agency: Roche, Williams & Cunnynham, N. Y.

COLGATE-PALMOLIVE-PEET Co., Jersey City (shaving cream), on Oct. 6 starts variety show with Al Jolson on 73 CBS stations, Tues., 8:30-8:55 p.m. (repeat, 12-12:25 a.m.). Agency: Sherman & Marquette, Chicago.

NESTLE'S MILK PRODUCTS, New York (Alpine coffee), on Sept. 9 starts for 13 weeks, five-minute participation in *Breakfast at Sardi's* on 13 BLUE Pacific Coast stations. Wed., 9:30-10 a.m. (PWT). On Sept. 12 starts for 13 weeks, quarter-hour participation in that program on 8 BLUE California stations, plus KOH, Reno; KEX, Portland; Sat., 9:30-10 a.m. (PWT). Agency: Leon Livingston Adv., San Francisco.

Renewal Accounts

DETROIT BIBLE CLASS, Detroit, on Sept. 20 renews *Detroit Bible Class*, adding 73 MBS stations, making a total of 96 MBS stations, Sun. 10-10:30 a.m. Agency: Stanley Boynton Adv., Detroit.

R. J. REYNOLDS TOBACCO Co., Winston-Salem, N. C. (Prince Albert smoking tobacco), on Oct. 10 renews *The Grand Ole Opry* on 60 NBC stations, Sat., 10:30-11 p.m. Agency: William Esty & Co., N. Y.

SERUTAN Co., Jersey City (health product), on Oct. 11 renews for 52 weeks *Drew Pearson* on 22 BLUE stations, Sun., 6:30-6:45 p.m. (repeat, 8:45-9 p.m.). Agency: Raymond Spector Co., N. Y.

CHRYSLER Corp., Detroit (institutional) on Sept. 17 renews *Major Bowes' Amateurs* on 61 CBS stations, Thurs. 9-9:30 p.m. Agency: Ruthrauff & Ryan, N. Y.

GROVE LABS., St. Louis (Bromo Quinine), on Oct. 5 will renew for 52 weeks *Reveille Roundup* on 86 NBC stations, Mon. Wed., Fri. 7:45-8 a.m. with rebroadcasts 8:45-9 a.m. and 10:30-15:45 a.m. Agency: Russel M. Seeds Co., Chicago.

Testimony at Petrillo Probe

(*Continued from page 63*)

of these 272 stations, 230 relied on recorded music between 80% and 100% of their musical time. Thus, whereas a "goodly number of network stations will be seriously and in some cases grievously affected by the ban, the great bulk of the non-network stations face the drying up of the source of most of their program material," Mr. Fly said.

Interrupting Mr. Fly's statement, Chairman Clark asked whether a large number of stations would not "go out of business" if the ban continued. Mr. Fly said that prolonging of the ban will result in diminution of program material available. Records wear out, he asserted, the music becomes unpopular, audiences diminish, and revenues fall off—all that in addition to other war-born troubles which confront stations. He predicted flatly that continuation of the ban would see many cases in which stations will "fold up".

War Songs Needed

Pointing to the need for new war songs to replace those of the "Over There" vintage, Mr. Fly said that it takes plugging to make a song and that it can't be plugged without rendition of the character given by radio via recordings. The value of repetition is axiomatic in music, he said.

Responding to Senator Andrews, Mr. Fly said stations are required to operate a given number of hours a day that, in his judgment, it was no exaggeration to talk about the ultimate effect of the transcrip ban on "a third or half of the tions". "It is an insidious proce he said. "It won't happen overni but the cumulative effect of drying up process is inevitable. T impact will be felt sometime late he said.

Picking up his prepared sta ment, Mr. Fly broke down the s vey results in terms of low-pow vs. high-power stations. Of low-power stations (500 watts less), there are 299 (65.2%) wh rely on phonograph records a electrical transcriptions for mo than 50% of their musical ti In cities with a population of 50,0 or less and in cities with a popul tion of more than 50,000, the su vey showed that of the 386 statio located in the smaller cities, the were 259 (67.1%) which used r corded music over 50% of t time. Of the 407 stations in citi of over 50,000, only 156 used mu more than 50% of the time.

Alluding to annual net ti sales, another exhibit showed th of the 419 less prosperous statio ($75,000 a year or less net ti sales), 288 (68.7%) looked to r corded music for more than ha their musical time. Of the 330 st tions with net time sales of mo than $75,000, only 93 stations relie upon recorded music for more tha half their time.

Full Force of Blow

Breaking down the returns o the basis of net income befo taxes, Mr. Fly noted that of th 331 stations which operated at net loss, or which had a net in come before taxes under $5,00 there are 225 stations (68%) whic used recorded music more tha 50% of their musical time. Of th 206 stations with net incomes be tween $5,000 and $25,000, ther are 112 (54.4%) in the more tha 50% recorded music category. O the other hand, only 43 (20.3% of the 212 stations with incomes i excess of $25,000 were in that cate gory.

Mr. Fly described a chart indi cating the geographical distribu tion of stations which will probabl be the most seriously affected. I its preparation, he said, the Com mission took all the stations whic used recorded music more tha 80% of their musical time. The totaled 252. It then selected tho stations whose net income befo taxes was less than $5,000. This re duced the figure to 167 stations.

"It would appear that in vie of their low earnings and thei great reliance on recorded musi these stations may well find i difficult to continue in business i the ban continues," the chairma said. "In fact, 80 of them los money in 1941, and now they wi be in even worse shape." Of the 80, he explained parenthetically, 1 were non-commercial stations bu they were included because the ba

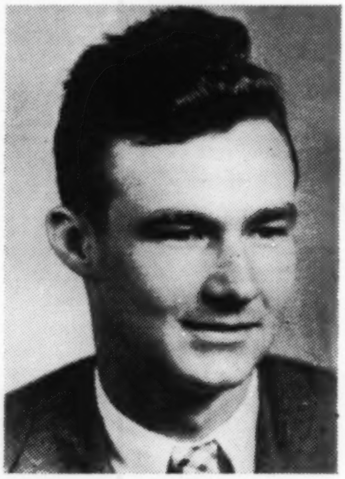
★ Sam Miller ★

ANOTHER NAME has been added to radio's Global War honor roll. Sam Miller, transmitter engineer of KLRA, Little Rock, has been reported "missing in action" in naval operations in the North Atlantic.

The known list to date includes Ensign Thomas R. McClelland, chief engineer of KLZ, Denver, who died at Pearl Harbor, and Capt. Derby Sproul, Army Air Forces, reported dead "somewhere in Africa," following a plane crash. He was formerly with KLZ, Denver; KDKA, Pittsburgh, and KOA, Denver.

Mr. Miller was a member of the Naval Reserve for several years prior to his being called to active duty in July, 1941. After a period of training at an Eastern training station, he was transferred to sea duty aboard a destroyer operating in the North Atlantic. His ship has since been officially announced by the Navy Department as having been sunk. Mr. Miller was listed as missing and presumed lost. He had already been promoted to Radioman, First Class.

Radioman Miller was employed by KLRA from Oct., 1937 until he was called to active duty last year. S. C. Vinsonhaler, general manager of KLRA, reported that peculiarly, he was in Little Rock on a short leave about two weeks before word was received that he was missing in action. "Sam Miller was well liked by all the employes and was a crack engineer and very quiet and retiring," said Mr. Vinsonhaler.



recorded music will probably e operation more difficult.

n describing the chart covering 167 stations in the most seriy affected class, Mr. Fly pointed that all but six states have ast one such station. The figure y be increased when all the rns are in, he said.

Need of Service

e said the next question was many of these stations which y possibly go off the air serve s which receive no other ser-. Asserting there had not been for a real study, he said he asked FCC engineers to give their best guess.

"They tell me that in this group 167 stations there are about 46 ions which render service to an a which receives no other priy nighttime service. In the time the situation is somewhat er. There are approximately stations which serve areas ch receive no other daytime priy service. In addition to the res I have just given you, there about 35 other stations which, they went off the air, would e part of their service area hout any primary nighttime vice. The comparable figure as daytime service is around 59."

"Thus, many people in this couny face the very real prospect of ing the only satisfactory nightne service which they now have d being altogether deprived of ytime service."

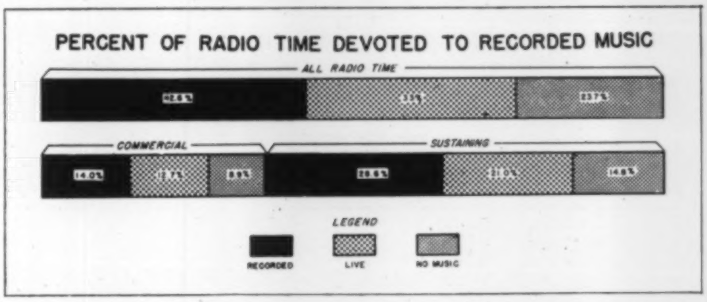
Mr. Fly concluded his formal atement as follows:

"It is apparent that we face a al—a vital problem here. From at I have said it is clear that if were not for music, radio broadsting as we know it could not ist. Without music, it is doubtl whether this country could suprt more than a handful of staons. Who would listen to the radio all that came over the air was t talk and more talk. We must erefore recognize the vital conibution of the musicians to the dustry and the compensation they ceive should be commensurate ith that contribution. If the comensation received at present is not much as they are entitled to, it only fair that they receive more.

Vital to Nation

"But just as the musicians are ital to broadcasting, the broadcast tations are vital to the country. They are performing a really great ervice, a service of great imporance to the war effort, a service, herefore, we must make every fort to sustain unimpaired.

"Already these stations are confronted with a shortage of the killed personnel and certain criical materials and items of equipent necessary for continued operation. An industry struggling with hese difficulties is now faced, as I ave said, with the drying up of he source of over 40% of its prorams. This presents a really seri problem which not only must e solved but must be solved uickly."



It is not exaggeration to say the Petrillo action will impair broadcast service even more than is indicated by the limited figures given, he said.

Describing electrical transcriptions as essential, Mr. Fly said radio must have them at any cost. While he declared he was sympathetic to the labor view, he could not feel that the banning of an "essential public service" should be condoned.

Up to Congress

Alluding to the "real emergency not only confronting the broadcasting industry but the people as a whole," provoked by the Petrillo ban, Chairman Clark asked Mr. Fly whether the Commission had reached any conclusions as to its jurisdiction to take action.

The chairman said he had no formal opinion but felt the Commission would have to exercise "considerable ingenuity to get in here and do it". He explained the FCC's jurisdiction was limited to licensees and that while he had made efforts to get Mr. Petrillo to reconsider, he had refused to alter the situation.

When Chairman Clark recounted that Mr. Davis had said the situation was serious from the standpoint of national morale, that Mr. Fly did also and that both had been rebuffed in their efforts to alleviate it, he asked whether it was not a fact that it was up to Congress to take a hand.

Seeks Action

"Then it looks like it's up to Congress if it is going to be done quickly," Mr. Clark interposed.

Agreeing, Chairman Fly said he did not think the committee had to wait "until Monday to see that something has to be done."

Senator White, though not a committee member, interjected that he felt Chairman Fly had given a comprehensive statement of fact. He added that he was interested in Chairman Fly's comment about the "want of ingenuity", asserting this was the first time that he had recognized the Commission felt such a want.

Obviously having in mind his past colloquies with Chairman Fly, proposing new legislation to clearly define the FCC's functions, Senator White said he thought the FCC might come forward with recommendations as to legislation to meet such situations as that provoked by the Petrillo bans.

Chairman Fly said the Commission was not prepared to make such recommendations now, but that he would be glad to work on it.

Senator Tobey opened a line of questioning remote from the Petrillo issue per se, with Mr. Fly on the stand. He asked whether the Commission ever checked to ascertain whether stations had followed through on commitments in connection with programming, referring particularly to new applicants who have pledged precise types of program service.

Mr. Fly said the Commission does follow through and that in some cases stations may not live up to prior commitments 100%. Where it is ascertained that a grant may have been procured on a basis of false representations, he said the Commission would be disposed to invoke revocation proceedings.

Senator Tobey alluded to "Regulation 176", the old designation of the transcription rule requiring announcement of transcriptions and recordings as such. He asked whether this rule was written to prevent "deception".

Mr. Fly pointed out the rule requires identification of programs and draws a distinction between phonograph records and transcriptions. He said that transcriptions obviously were of superior quality and that he hoped that stations wouldn't rely upon fifty-cent phonograph records preponderantly as program material.

Urges Lesser Penalty

Asked by Senator Tobey whether many stations have been punished for failure properly to announce recordings, Mr. Fly said this constituted a deficiency in the Act itself. Any misconduct of a licensee can be punished only by revocation, which would be an "awfully severe penalty". Congress might want to provide some lesser form of penalty, he said. Senator White again interjected that the question of suspension had been considered at the time the 1934 Act was written, but was left in "inadequate shape".

Senator Tobey asked about employment of musicians by the networks, asserting he had information showing that NBC hired only 314 musicians (presumably including the BLUE), and that CBS had 152 staff musicians. He said the expenditures for these musicians were small in comparison with the revenues of these networks.

Where Sales Multiply
Air Castle of the South
50,000 WATTS CLEAR CHANNEL
W E
WSM
NASHVILLE, TENNESSEE •
OWNED AND OPERATED BY
THE NATIONAL LIFE AND ACCIDENT INSURANCE COMPANY, IN
NATIONAL REPRESENTATIVES, EDWARD PETRY & CO., INC

U.P.
THE MARK OF ACCURACY,
SPEED AND INDEPENDENCE IN
WORLD WIDE NEWS COVERAGE
UNITED PRESS

The Twin Port Cities of
DULUTH-
SUPERIOR
BUY 9.8%
MORE FOOD
than
DES MOINES!
KDAL
Duluth, Minnesota

Columbia's Station for the
SOUTHWEST
KFH
WICHITA
KANSAS
Call Any Edward Petry Office

AFTER YOU, UNCLE SAM!

Your copy of BROADCASTING is mailed in time to arrive on schedule every week. If it is a little late in coming, please remember that our armed forces have first call on all transportation facilities.

Richardson Heads NBC London Staff

Appointment Made by Royal During Visit to Britain

Mr. Richardson

STANLEY P. RICHARDSON, formerly Associated Press correspondent, confidential secretary to Ambassador Joseph E. Davies, and shortwave coordinator, has been appointed manager of NBC's London office, John F. Royal, vice-president in charge of international broadcasting, announced last week. Appointment is the first result of a reorganization of NBC's London bureau effected by Mr. Royal during his current visit to the British capital.

A native of Norfolk, Mr. Richardson started his newspaper career as a reporter in Atlanta in 1920, working in other southern cities in that capacity before joining AP as night editor in Dallas in 1922. For the following 16 years he served AP as correspondent and editorial desk man in Oklahoma City, Chicago, Atlanta, Washington, New York and Moscow, U.S.S.R. He was chief of the Moscow bureau for three years, leaving for a return four-year assignment in Washington.

In 1938 he resigned from AP to become confidential secretary to Ambassador Davies in Moscow, following him the same year to Brussels when Mr. Davies was transferred there as Ambassador to Belgium and Minister to Luxembourg. Four months after the outbreak of war in Europe, Mr. Richardson returned to Washington as special assistant to the Secretary of State, serving as Mr. Davies' confidential aide both while he was in that and subsequent posts.

Last year Mr. Richardson left Mr. Davies to take the post of Coordinator of International Broadcasting, a liaison position between the Government and the shortwave broadcasters. In January of this year he was given a leave of absence to become special adviser to the Director of Censorship in matters of international broadcasting. He has resigned from both offices to accept the position with NBC in London.

In a report to NBC from London, where he arrived Sept. 3, Mr. Royal said that officials of the BBC have promised him every cooperation in getting more American programs for American troops in the British Isles, in addition to special BBC programs for them. Discussions also covered the possibility of importing American talent, new religious and spiritual programs and long-range cooperation between the BBC and NBC after the war.

MAJOR VITAMINS USING 20 STATIONS

MAJOR VITAMINS Inc., New York, on Sept. 14 opened an extensive radio campaign on 20 stations for Major Brand B Complex tablets. Firm has signed for spot announcements and participations on food and women's interest programs, also using some news broadcasts on local outlets throughout the country. Commercials are live and are aired one to three times a week.

Major Vitamins placed announcements on the *Marjorie Mills Hour* on the Yankee Network Aug. 24, and will continue to use the program when it moves to the newly organized New England Regional Network Sept. 29. Basic NERN outlets are WBZ WTIC WLBZ WCSH WJAR.

Firm has contracted for participations on WEEI WJR WHN WABC WGY WFBM WSPD WHKC WFMJ KIRO, and for spot announcements on KXL WKWK WOLF WAZL WFPG.

Grey Adv., New York, handles the account. Advertising manager is Rose Barkan.

Hy-Pro on Coast

CHLORINE SOLUTIONS Inc., Los Angeles (Hy-Pro), through Barton A. Stebbins Adv., that city, on Sept. 12 started sponsoring a weekly quarter-hour participation in *Breakfast at Sardi's* on 8 BLUE California stations (KECA KGO KTKC KFSD KTMS KFBK KWG KERN), and KOH, Reno, Nev., Saturday, 9:45-10 a. m. (PWT). Contract is for 13 weeks. Firm also sponsors an early morning thrice-weekly quarter-hour newscast, *Between the Lines*, on KECA, Los Angeles. Lee Crosby is agency account executive, with Myron Elges representing the network.

COLGATE SPONSORS AL JOLSON ON CBS

FALL advertising plans for Colgate-Palmolive-Peet Co., Jersey City, seemed pretty well settled last week with announcement that the company would sponsor Al Jolson in a new variety show on CBS starting Oct. 6 in the Tuesday 8:30-8:55 p.m. period, currently occupied by C-P-P show for Palmolive Shave Cream, *Hobby Lobby*. On Oct. 3, the latter show will be shifted to Saturdays at the same time on CBS.

Heading the list of entertainers on the Jolson show will be Hildegarde, Parkyakarkus and Elaine Arden, comedienne with Ray Block's orchestra. Carlo de Angelo, radio director of Sherman & Marquette, Chicago, handling the show, will direct the series, probably resigning his duties with the agency.

Ted Bates Inc., New York, is agency in charge of the *Hobby Lobby Show*, and on Oct. 1 will take over advertising for Palmolive soap, radio plans for which are not yet set. Bates is also agency for Colgate's new show on NBC, *Can You Top This?*, which starts Oct. 3, Saturdays, 9-9:30 p.m. [BROADCASTING, Sept. 14]. The show will continue to be heard on WOR, New York, Tuesdays, 8:30-9 p.m. for Kirkman & Sons, Brooklyn, a division of Colgate. No agency has yet been set by Colgate to handle the Kirkman account following the resignation of the account by N. W. Ayer & Son, New York.

Dempsey Winn
White Is Reelect

Maine Senator Retains
With Wide Vote Margin

TWO NATIONAL figures i
tified with radio were victori
in political contests last w
with Senator Wallace H. W
Jr. (R-Maine) winning reelec
and former Representative J
J. Dempsey, of New Mexico, w
ning the Democratic nomina
for the governorship of that St

Senator White, in the nati
first election since it went to
won the Maine election by a
margin over his Democratic
ponent, Fulton J. Redman.

He is co-author of the R
Act of 1927 and the Communi
tions Act of 1934. His team-

Mr. White

Mr. Demp

in the drafting of these bills,
mer Senator C. C. Dill of Wa
ington, won the Democratic n
ination for the house from S
kane earlier this month [BRO
CASTING, Sept. 14].

Gallery Recognition

Mr. Dempsey, recognized as
father of the radio galleries
Congress, giving radio equal
ognition with the press in n
coverage, recently resigned as
der-Secretary of the Interior
undertake the New Mexico gub
natorial race. He is the father
William J. Dempsey, former F
general counsel and now a p
titioner in Washington.

After Mr. Dempsey's last t
expired in the House in 1940,
was named a member of the U
Maritime Commission by Pr
dent Roosevelt. Subsequently,
was appointed to the Under-S
retaryship of Interior. The N
Mexico elections occur in Nov
ber and the state in recent y
has gone largely Democratic.

Gov. Murphy Nominat
For Position in Sen

FORMER Gov. Francis P. Murp
of New Hampshire, principal ow
of WMUR, Manchester, won
Democratic Senatorial nominat
in the primaries last week.
former Republican, Gov. Mur
registered as a Democrat seve
months ago. He defeated Alvin
Lucier, Democratic National C
mitteeman, for the nomination
a 2-1 vote. He will oppose Sen
Styles Bridges, Republican inc
bent, in the November elections

WMUR began operation
April, 1941, and is a BLUE
let. Governor Murphy owns
of the stock; Edward J. Gallag
publisher of the *Laconia Citi*
5%, and Dr. James J. Pow
physician, 5%.

Here's the DENVER Daytime Picture

THE 10 TOP-RATED daytime serial programs in Denver (Hooper ratings)—*all* on KOA! Such overwhelming audience leadership *proves it pays* to have your say on KOA!

KOA 50,000 WATTS

FIRST IN DENVER

Represented nationally by NBC Spot Sales Offices

Easy Pickin'

WAIR is famous for its quick results. That's because WAIR has the listeners and the listeners' confidence. Add to this the exceptional income of Winston-Salem workers and you have a golden combination.

WAIR

Winston-Salem, North Carolina

THE 5000 WATT
Voice of the Tri-Cities
ROCK ISLAND · DAVENPORT · MOLINE

In this market no "Outside Voice" can compare with the "Inside Pull" of WHBF!

WHBF

Affiliate: Rock Island ARGUS
Basic Mutual Network
1270 KC FULL TIME

CLASSIFIED Advertisements

Situations Wanted, 10c per word. Help Wanted and other classifications, 15c per word. Bold face listings, double. **BOLD FACE CAPS**, triple. Minimum charge $1.00. Payable in advance. Count three words for box address. Forms close one week preceding issue. Send Box replies to BROADCASTING Magazine, National Press Building, Washington, D. C.

Help Wanted

OUNCER—Immediate opening for d steady man interested in perman- connection with fast-growing NBC liate in South. Basic salary plus in- tive system. Include, qualifications, ft status, salary requirements, picture first letter. Box 867, BROADCAST- G.

Program and Barn Dance M.C.—By west regional network basic station. o and personal appearance experience sary. Writing ability desirable. State rience, references and draft status first letter. All replies strictly confi- al. Box 848, BROADCASTING.

Class Phone—With some announcing rience to assume job of chief engi- ing. Good salary. Also wanted an- cer with third class license. Pleas- working conditions. KHUB, Watson- California.

er—First or second class. WGNY, burgh, New York.

er—Ideal working conditions. Will first or second class license. Send full ils first letter. Box 844, BROAD- STING.

AROUND ANNOUNCER—News- ight Commercial and Ad Lib. Give plete details first letter, including ft status and starting salary expected. IZ, Ottumwa, Iowa.

SMAN—Excellent opportunity for ly experienced time salesman with W local in central midwest. 15% with ral draw. Complete details first letter. 843, BROADCASTING.

TERN STATION WANTS — Experi- d combination operator-announcer can read news and write copy. Send lifications, snap-shot and recording voice reading news and commercial y. Fly-by-nights please don't apply. ire person who wants permanent ition. Box 862, BROADCASTING.

THERN STATION—Has immediate ning for draft exempt experienced nouncer. Send transcription and to to Box 859, BROADCASTING.

an—For 5,000 watt Regional; Basic twork affiliate; Prosperous Market; ress complete details to Box 858, OADCASTING.

er—For 5,000 watt station in middle t. State marital and draft status, also lifications. Box 857, BROADCAST- G.

Mid-western Station—With outstand- News Department interested in hear- from News Casters and News iters. News Casters must be able judge News values and write OWN y in accurate, interesting style. iters should be men with newspaper graph desk experience, or sufficient vice in Radio News Department. In t letter state experience, age, draft s, present salary, give reference, soon available and include samples copy you have written. All replies fidential. Box 856. BROADCASTING.

IO OPERATOR—Engineer. Chicago tion, execellent opportunity. Salary e $60. State education, experience, ft status. Box 867, BROADCASTING.

an—With some mike experience to e complete charge of recently opened te studios. Box 853, BROADCAST- G.

ator—First, Second, Third Class. No perience necessary. Box 866, BROAD- STING.

rienced salesmen—New England ic Network Station, leader in volume. jor market, city of 200,000. State ft status and salary requirements in t letter. Box 864, BROADCASTING.

Help Wanted (Cont'd)

Texas Independent Station—Desires competent announcer. Tell all. Box 865, BROADCASTING.

Radio Operator Wanted—Opportunity for chief position. Write fully experience draft status. WSKB, McComb, Mississippi.

A Junior Announcer—Experienced. Wire, then write full information, draft status, and starting salary expected. WEIM, Fitchburg, Massachusetts.

WANTED—1st class operator and announcer. Pacific Northwest station. Basic pay—$40.00. In reply give details, previous experience and when available. Box 869, BROADCASTING.

Situations Wanted

College Woman—Program director, announcing, traffic, continuity, promotion, desires opportunity with progressive station in metropolitan eastern area. Box 863, BROADCASTING.

CHIEF ENGINEER—Practical experience on low to medium power. Executive ability sufficient to take care, and full charge of department. Now Chief of Virginia Station, available after September 26. Age 46, married, in radio since 1930, desires eastern half U. S. $200 month. 40 hour week, vacation. Box 852, BROADCASTING.

CHIEF ENGINEER—Six years' broadcast experience. Desires permanent position. East preferred. Box 854, BROADCASTING.

STATIONS SOUTHEAST AND GULF COASTS—Young, family man, 3-A, seven years announcing, producing, originating midwest shows seeks permanent program directorship with progressive outlet. Now with Chicago network affiliate. Box 855, BROADCASTING.

Writer-Producer—Anxious to move to favorable climate. Four years' station and agency experience. Can be available December first. Box 861, BROADCASTING.

Writer-Producer—In fourth year with nationally known agency, desires change. Author of outstanding script shows, sponsored via transcription coast-to-coast. Originator-writer-producer of hit commercial musical now in 53rd week. Commercial copy-writer for widely known firms. Must give present employer at least six weeks notice. Salary secondary to opportunity. Box 860, BROADCASTING.

SALESMAN—Six years' experience local and regional sales. 3A. Box. 850, BROADCASTING.

Short on personnel?—Here's a man capable management, sales, programming, continuity, publicity and announcing. Excellent performances on one or all duties. Young. Married. Family. Takes good salary—well worth it. Now managing prosperous local. Box 851, BROADCASTING.

SALESMANAGER—Now employed local network affiliate seeks connection progressive eastern station. Able take complete charge station . . . 12 years radio . . . married, exempt. Box 847 BROADCASTING.

ANNOUNCER—Married. draft deferred. Prefer west coast. Four years good delivery, best references. Make really attractive offer, and ET audition will follow. Wire Box 849, BROADCASTING.

Woman—Experienced, seeking permanent employment progressive station. Quoting References: Reliable, dependable, hard working, radio voice, copy writer, tenacious tracking elusive prospects, pleasing personality. Box 845, BROADCASTING.

Thoroughly Experienced Announcer-Newscaster—Satisfaction guaranteed. 3-A Box 846, BROADCASTING.

Reilly to WLW

ARTHUR REILLY, Washington newspaperman, news analyst and former Commissioner of Conciliation for the Dept. of Labor, has been appointed to the news staff of WLW, Cincinnati. He replaces Jay Sims, moderator of *Views on the News*, aired on NBC Sundays at 4:30 p.m., (EWT) for Ohio Oil Co. He will also present *News From the Four Corners of the World*, 11 p.m. nights.

More Listening

EVENING listening in the New York metropolitan area was consistently higher during July and August of 1942 than last summer, according to the "Continuing Measurement of Radio Listening" for the two-month period just released by C. E. Hooper Inc. Study, sponsored jointly by a group of New York stations, shows average sets-in-use for 1942's summer months as 22.0, a gain of 8% over last year's 20.4.

Swift Spots

SWIFT & Co., Chicago (Silverleaf lard), has placed transcribed spot announcements four to ten times a week for two to seven weeks on the following stations: WMAQ, WCFL, WJJD, Chicago; KDKA, WJAS, KQV, WWSW, Pittsburgh; WJAC, Johnstown, Pa. Agency is J. Walter Thompson Co., Chicago.

"It's WFDF Flint Michigan fer me—an' no udder station!"

PROFESSIONAL DIRECTORY

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An Organization of
Qualified Radio Engineers
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FIELD INTENSITY SURVEYS
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CUSTOM BUILT EQUIPMENT
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GEORGE C. DAVIS
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Washington, D. C.

CLIFFORD YEWDALL
Empire State Bldg.
NEW YORK CITY
An Accounting Service
Particularly Adapted to Radio

Frequency Measuring Service
EXACT MEASUREMENTS
ANY HOUR—ANY DAY
R.C.A. Communications, Inc.
66 Broad St., New York, N.Y.

Radio Engineering Consultants
Frequency Monitoring
Commercial Radio Equip. Co.
Silver Spring Md.
(Suburb, Wash., D. C.)
Main Office:
7134 Main St.
Kansas City, Mo
ACCURACY
Crossroads of
the World
Hollywood, Cal.

RING & CLARK
Consulting Radio Engineers
WASHINGTON, D. C.
Munsey Bldg. • Republic 2347

BROADCASTING FOR RESULTS!

Court Upholds Stations' Right to Hearing

License Privileges Are Affirmed Under Decision in KOA-WHDH Case

Full text of opinion of U. S. Court of Appeals for District of Columbia in KOA-WHDH case will be found on page 20.

BY WHATEVER name it may be called, a broadcast station has a definite right acquired through its operating license and the FCC cannot tamper with or degrade a station's facilities without according it the right to be heard.

That was the crux of the decision of the U. S. Court of Appeals Sept. 12 in the KOA-WHDH case, wherein it reversed the FCC and remanded to it the first proceeding since the Havana Treaty involving the breaking down of a clear channel through duplicated operation.

The court held, 4-2, that the Commission had erred in not giving NBC, licensee of KOA, the opportunity to intervene and present testimony.

No Action on Stay Order

No action has yet been taken by the court on the pending petition of KOA for a stay order which, if granted, would force WHDH, now a BLUE outlet, to revert to daytime operation on the 850 kc. clear channel on which it operates fulltime by virtue of the FCC's decision.

Strict compliance by the FCC also would entail a change in the assignment of WJW, Akron—likewise assigned to 850 kc. with 5,000-watts power—following the WHDH grant. WJW renders primary service to Cleveland.

While there were five separate opinions in the case, four of the six judges concurred in the fundamental view that stations are entitled to hearing practically as a matter of right when they can show substantive injury. The majority held that this injury need not be financial and that in the case of the 850 kc. clear channel, KOA contended electrical interference would result in its secondary area and that the status of the station was degraded by reducing it from a clear channel to a duplicated channel outlet.

It was indicated last week that an understanding might be reached by NBC with the FCC, under which the stay order would not be pressed and the existing assignments on the 850 kc. channel would be permitted to stand until the FCC followed through on the rehearing or until the matter had been litigated by the Supreme Court. The FCC has 90 days, or until mid-December, in which to decide whether it will seek a writ of certiorari to the highest tribunal.

Under such an agreement, it is presumed NBC would not prejudice its rights, particularly in connection with the protection of clear channels. It would mean that the status quo would be retained with respect to assignments on 850 kc. until there is a final adjudication.

The case is important in several respects. The finding by the majority, and in fact inferentially by the two dissenting judges, that stations acquire a certain right, even though it may not be a vested or property right, is seen as most significant. Moreover, the decision overturns the FCC contention that in the public interest it can exclude licensees from intervening in such proceedings, when no financial injury is done.

The court had heard reargument before its entire bench of six judges on June 13. The case originally had been heard by a panel of three members, but the conclusion to have it reargued before the entire panel came after the Supreme Court decision in the Scripps-Howard case, which upheld the right of the lower tribunal to issue stay orders against FCC decisions.

In the majority opinion written by Associate Justice Wiley Rutledge and concurred in by Chief Justice D. Lawrence Groner and Associate Justices Fred M. Vinson and Harold M. Stephens, Judge Rutledge stated:

"Whatever its proper label, 'qualified right', 'privilege', 'status', 'licensee', appellant acquired something of value by virtue of its license and the status. The label is not important. The fact that appellant has fulfilled statutory conditions and has received statutory advantages, status and protections is important. That it may be deprived of these and that the Commission has discretion to take them away, wholly or in part, do not mean that it can do so in an unfair manner or without hearing. The protections of procedural due process do not disappear because the substantive right affected is not a full-grown vested right like that in one's castle at the common law."

Rights to Hearing

In this conclusive language, the court torpedoed the Commission's theory that stations, as a matter of right, cannot get hearings or appeal from its rulings.

Separate dissenting opinions were signed by Associate Justices Justin Miller and Henry W. Edgerton.

The Commission had held in that KOA did not raise the financial aspect but relied on interference that allegedly would result. It was contended this was not an appealable ground.

Aside from the clear-channel issue, unusual interest attached to the KOA appeal since WHDH on June 15 became the BLUE outlet in Boston, by virtue of its fulltime operation with 5,000 watts on 850 kc. With the separation of NBC and the BLUE Network as separate corporate entities, certain aspects of the situation apparently changed.

Two other cases involving stay orders still pending before the court, which may be decided shortly in the light of the KOA decision, involve WCPO, Cincinnati, and WOW, Omaha. In each instance these stations contended that electrical interference resulted from FCC decisions, without hearing, granting other stations improved assignments on the channel they occupied.

WCPO protested a grant to WCOL, Columbus, and WOW an assignment to WKZO, Kalamazoo. In each instance it was claimed that the service areas of the protesting stations were reduced and a portion of the public deprived of service by virtue of the FCC assignments without hearing.

While Justice Rutledge wrote the majority opinion which reverses and remands the case to the Commission, Chief Justice Groner and Associate Justice Vinson joined in a concurring opinion going beyond their colleague. Associate Justice Stephens likewise concurred in the conclusion of Judge Rutledge and expressed agreement with the views of Judges Groner and Vinson but added other views upholding the right to hearing of the aggrieved parties and emphasizing "fair play".

While Justices Miller and Edgerton dissented, they nevertheless cited that NBC was entitled to some sort of hearing but contended that there were no real allegations of injury and held the appeal should have been dismissed.

Clash of Views

Judge Rutledge held that the Commission should have afforded NBC the right to intervene after it had issued its proposed findings, favoring the assignment of WHDH on the frequency fulltime. Judges Groner and Vinson held that they should have been parties at the outset, and Judge Stephens likewise concurred in that view. The dissenting judges, on the other hand, held that NBC had been afforded an opportunity to present testimony but had rejected it.

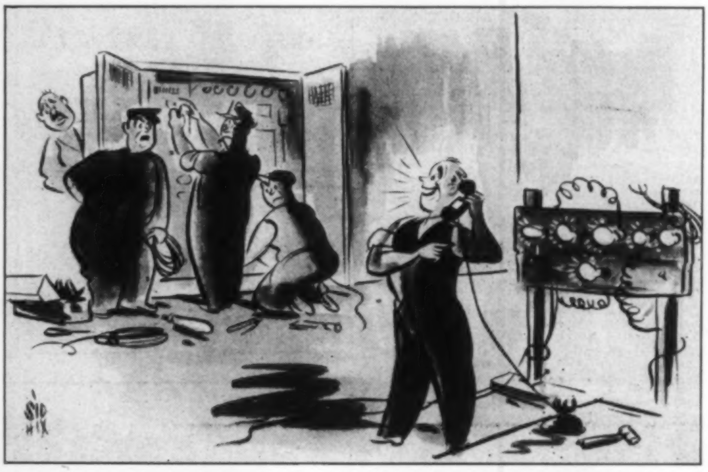
In holding that NBC had the right to appeal, Judge Rutledge, for the majority, alluded to the Supreme Court opinion in the Sanders Bros. case, deciding that financial injury qualified for appeal. But he said that other injury, aside from financial, constituted an appealable basis. Broadcasting, he said, is not exclusively a matter of business or financial gain and "it is the public interest, not the private right, which is primarily at stake upon the appeal."

NBC Right to Hearing

In passing, Justice Rutledge took a swing at commercial broadcasting. He said that "unfortunately, commercial enterprise has taken over the lion's share of the field." He added that notwithstanding the policy which has "so favored commercial operators", there is a considerable volume of non-commercial broadcasting through stations supported "not by advertising or 'plugs' but by churches, universities, colleges, charitable foundations and others who have no profit-making revenues. Many still hope that the evils apparently inherent in commercial broadcasting yet may bring about a larger allocation of frequencies to licensees whose objects are not primarily the making of money."

Dealing with the right of NBC

(*Continued on page 60*)



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